



INVESTMENT  
PROMOTION AGENCY  
UNDER THE MINISTRY  
OF ECONOMY  
OF THE KYRGYZ REPUBLIC

KALIKOVA &  
ASSOCIATES  
*law firm*

# BUSINESS IN THE KYRGYZ REPUBLIC:

LEGAL ASPECTS

Information and Reference Guide

2014





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## FOREWORD

### **Dear Reader,**

This information and reference guide (updated yearly) covers the legal aspects of doing business in Kyrgyzstan. This publication was developed to help potential investors, who, having entered the market of this country, frequently face issues related to starting and running their business in Kyrgyzstan, for instance, investor protection, tax and licensing requirements, and many other regulation areas. This edition represents an attempt to answer many of these questions, but, more importantly, it is an attempt to serve as a useful reference for those who are interested in doing business in Kyrgyzstan.

This guide was prepared by the qualified experts and experienced lawyers practicing in investment promotion and investor protection as well as in various areas of commercial law and whom, consult with companies engaged in the following fields: mineral resources exploration and mining, banking and finance, energy, telecommunications, hotel business, construction and real estate, pharmacy and a number of other sectors of economy. We are committed to continued professional development and this publication is evidence of our continuous search for new possibilities of professional growth.

We thank our readers and want to emphasize that this information and reference guide has originated not only from our eagerness for professional growth, but also from our desire to make our country, Kyrgyzstan, more open to businesses.

This publication is the product of cooperation between the Investment Promotion Agency under the Ministry of Economy of the Kyrgyz Republic and Kalikova & Associates law firm who joined their efforts to contribute towards building a better future of Kyrgyzstan.

This publication is also accessible to a worldwide audience online at:  
[www.invest.gov.kg](http://www.invest.gov.kg) and [www.k-a.kg](http://www.k-a.kg).

**Yours respectfully,**

**Investment Promotion Agency under the Ministry of Economy  
of the Kyrgyz Republic,**

**Kalikova & Associates Law Firm**

## 1. KYRGYZSTAN: AN OVERVIEW

### 1.1 Geography

The Kyrgyz Republic is located in Central Asia and has an area of 199 thousand square kilometres, or 77,540 square miles. This landlocked nation stretches 900 km east to west and 410 km north to south.

The Kyrgyz Republic is a mountainous country with 94.2% of its territory located 1,000 metres and 40.8% located 3,000 metres above sea. The average height above sea level is 2,750 metres, the highest point is 7,439 metres, and the lowest point is 401 metres<sup>1</sup>. The Kyrgyz Republic borders Kazakhstan to the north, Uzbekistan to the south-west, Tajikistan to the south, and China to the east and south-east<sup>2</sup>.

The climate is continental; air temperature varies from -40°C in the winter to +40°C in the summer. The landscape includes all natural zones common for the northern hemisphere, except the tropics. The republic is one of the 20 countries with the richest water resources in the world.

By its administrative and territorial system the Kyrgyz Republic belongs to unitary states and consists of 7 oblasts (Regions), (Chui, Issyk-Kul, Talas, Naryn, Jalalabat, Osh and Batken) and 2 cities of national status (Bishkek and Osh). The capital of the Kyrgyz Republic is Bishkek.

### 1.2 History

The first states appeared within the territory of the present-day Kyrgyz Republic in the 2nd century B.C. The most ancient historical documents on Kyrgyz statehood were written by a well-known Chinese historian and chronicler Sim Xian that dates back to 201 B.C.<sup>3</sup>

By the late 7<sup>th</sup> to early 8<sup>th</sup> century A.D. the Kyrgyz people had become a significant force respected by the powerful nations of Central Asia, and by the fourth decade of the 9th century they founded a vast nomadic empire known as the Kyrgyz Kaganate. The traditional and cultural background of the Kyrgyz people and the ethnonym “Kyrgyz”, which is interpreted by the Kyrgyz people themselves as “forty maidens”, each a traditional ancestress of a family line, support the assumption that the Kyrgyz Kaganate consisted of 40 tribes.

Between 1870 and 1880 the territory of Kyrgyzstan became part of the Russian Empire. In 1918, Kyrgyzstan became part of the Turkestan Autonomous Soviet Socialist Republic of the Russian Soviet Federative Socialist Republic. As a result of the State Division of Soviet Central Asian Republics, in 1924, the Kara Kyrgyz (since 1925 – Kyrgyz) Autonomous Region was established within the Russian Soviet Federative Socialist Republic; in 1926, the territory was transformed into the Kyrgyz Autonomous Soviet Socialist Republic within the Russian Soviet Federative Socialist Republic, and in 1936 – into the Kyrgyz Soviet Socialist Republic within the Union of Soviet Socialist Republics<sup>4</sup>.

In 1991, Kyrgyzstan proclaimed itself an independent and sovereign state known as the Republic of Kyrgyzstan, and since the 5<sup>th</sup> of May, 1993, it has been officially named as the Kyrgyz Republic.

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<sup>1</sup> <http://www.welcome.kg/ru/news/443.html>

<sup>2</sup> [http://kyrgyzstan-tourism.com/index.php?option=com\\_content&task=view&id=80&Itemid=90](http://kyrgyzstan-tourism.com/index.php?option=com_content&task=view&id=80&Itemid=90)

<sup>3</sup> [http://mfa.kg/common/about-kyrgyzstan\\_ru.html](http://mfa.kg/common/about-kyrgyzstan_ru.html)

<sup>4</sup> Kyrgyz Statehood. Century Statistics. Bishkek, 2003.

### 1.3 Population and Language

As of the 1<sup>st</sup> of March, 2013, the Kyrgyz Republic had a population of a little over 5 million 680.2 thousand people<sup>5</sup>. The density of the population in the Kyrgyz Republic is 28 people per square kilometre. About 90 nationalities live in the country. As of the beginning of 2012, the indigenous people, the Kyrgyz, represent 72.2%, the Uzbeks 14.43%, and the Russians 6.9% of the population.

- Urbanization (year of 2012):
  - Urban population: 33.9%
  - Rural population: 66,1%

The permanent population of the country as compared to the same period last year (5,571.2 thousand people as of March 1, 2012) increased by 109 thousand people, or 2.0 percent.

- Age distribution (2012):
  - 0 to 4 – 661,099;
  - 5 to 9 – 531,475;
  - 10 to 14 – 500,771;
  - 15 to 19 – 571,581;
  - 20 to 24 – 591,024;
  - 25 to 29 – 496,992;
  - 30 to 34 – 391,306;
  - 35 to 39 – 347,170;
  - 40 to 44 – 325,531;
  - 45 to 49 – 303,373;
  - 50 to 54 – 274,872;
  - 55 to 59 – 188,393;
  - 60 to 64 – 128,882;
  - 65 to 69 – 56,844;
  - 70 and more years of age – 182,575.

The national language of the Kyrgyz Republic is Kyrgyz, while the official language is Russian. Both languages are being used on equal terms and are employed for administrative purposes; however, under the legislation of the Kyrgyz Republic<sup>6</sup>, the Kyrgyz version of a document is considered to be its original version. In its official relations with foreign nations (receptions, meetings, development and ratification of documents) the Kyrgyz Republic uses the national language, while in relations with the CIS countries it also uses the official language.

### 1.4 Links to Other Countries

The relatively small size of the country makes travel within it easy. A flight from the north to the south of the country lasts about one hour.

The total length of roads in the Kyrgyz Republic is 34,000 km, including 18,810 km for general use roads maintained by the road units of the Kyrgyz Ministry of Transport and Communications and 15,190 km roads of cities, villages, agricultural, industrial and other enterprises.

<sup>5</sup> [www.stat.kg](http://www.stat.kg)

<sup>6</sup> The Law of the Kyrgyz Republic "On National Language of Kyrgyz Republic" of 2<sup>nd</sup> April, 2004.

The Kyrgyz Republic has signed bilateral interstate agreements on international road communications with 19 states, among which are all the CIS countries as well as Germany, Iran, China, Latvia, Mongolia, Pakistan, Poland, and Turkey<sup>7</sup>.

The railway transportation system of the Kyrgyz Republic is fairly well developed. This is explained by the mountainous relief of the country. At the same time, the country has a reasonably good transit capacity.

### **Transit Possibilities:**

Kyrgyzstan has signed air communications agreements with 26 countries of the world. However, regular air communications are maintained only with 11 countries.

- Cities of the Kyrgyz Republic are connected by direct air flights to the following countries and cities: Russia (Moscow, Saint Petersburg, Yekaterinburg, Krasnoyarsk, Novosibirsk, Omsk), Tajikistan (Dushanbe, Hujent), Uzbekistan (Tashkent), Kazakhstan (Astana, Almaty), Armenia (Yerevan), Turkey (Istanbul), Iran (Teheran, Meshed), Pakistan, China (Beijing, Urumqi), India (Delhi), the United Arab Emirates (Dubai), South Korea (Seoul, Incheon), and Great Britain (London).
- Roads provide access to all neighbouring countries (Uzbekistan, Tajikistan, Kazakhstan, and China).
- There is no developed railway system within the territory of the Kyrgyz Republic. Thus, there is no railway line between the north and south of the country. Nevertheless, the Kyrgyz Republic does have a railway connection to Uzbekistan and Kazakhstan.

### **Mail and Cargo Delivery**

Both state-owned and private providers of these services are active in the market of the Kyrgyz Republic – 7 mail companies are currently operating<sup>8</sup>. Thus, Kyrgyzpochtasy (Kyrgyz Post) state enterprise provides services of regular and express mail, including delivery of parcels and packages by land and by air, international express mail services, and services of postal money orders within the country and around the world. Representation offices and licensees of international companies DHL, FedEx, UPS, TNT Express, and local companies Interpost, Kyrgyz Courier, and a number of others, provide express mail services.

### **The Internet**

There are a broad variety of options for Internet access; they range from dial-up to wired broadband and Wi-Fi access and satellite-based Internet. Leading service providers include ElCat, AsialInfo, Kyrgyztelecom, Aknet, Saima Telecom, WinLine, and a number of others.

### **Mobile Telecom Services**

At the moment, mobile services in the local market are provided by:

- D-AMPS standard mobile services network operated under **Katel** brand and offering roaming services in 121 countries;

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<sup>7</sup> <http://www.mtc.gov.kg>

<sup>8</sup> <http://mtc.gov.kg/page/27.html>

- GSM standard mobile services network operated under **Beeline** brands and offering roaming services in 182 countries;
- CDMA20001X standard mobile services network operated under **Fonex** trademark and offering roaming services in 2 countries;
- GSM standard mobile services network operated under **MegaCom** brand and offering roaming services in 196 countries;
- CDMA20001X EV-DO standard mobile services network operated **Nexi** trademark;
- GSM standard mobile services network operated under O! <sup>TM</sup>.

## 1.5 Political System

The political system of the Kyrgyz Republic is defined in the Constitution<sup>9</sup>. According to separation of powers principle set forth in the Constitution, the state power of the Kyrgyz Republic is represented by legislative, executive, and judicial branches cooperating under the rule of the President of the Kyrgyz Republic.

- The President is the head of state and the top official of the Kyrgyz Republic elected for a period of 6 years.
- The Jogorku Kenesh – Parliament of the Kyrgyz Republic – is a representative body in charge of legislature. The Jogorku Kenesh of the Kyrgyz Republic consists of 120 Parliamentarians elected for the term of 5 years on a proportional basis.
- The executive power of the Kyrgyz Republic is represented by the Government of the Kyrgyz Republic, line ministries, state committees, other executive authorities and bodies of local state administration subordinate to the Government.
- In the Kyrgyz Republic judicial power may only be administered by the courts. In the cases and pursuant to the procedure provided by law, all citizens of the Kyrgyz Republic have the right to participate in the implementation of justice.

## 1.6 Judicial System

The judicial system of the Kyrgyz Republic is represented by the Supreme Court of the Kyrgyz Republic, and local courts. The Constitutional Chamber operates within the Supreme Court of the Kyrgyz Republic. Judicial power is executed through constitutional, civil, criminal, administrative, and other forms of proceeding.

It should also be noted that in the Kyrgyz Republic there exist courts of arbitration courts which resolve civil disputes out of court. However, there is no separate law on international commercial arbitration. An award is enforceable under a writ of execution issued by the state court. In addition, the state court may order provisional measures in the legal cases reviewed by the permanent court of arbitration.

**General jurisdiction courts** have the following system:

- Courts of primary jurisdiction are district level courts, district courts of Bishkek city, city courts, military courts of garrisons and inter-district courts. All of them consider and resolve the disputes falling within their jurisdiction on their merits.

<sup>9</sup> Constitution of the Kyrgyz Republic adopted on 27<sup>th</sup> June, 2010.

- Courts of appellate jurisdiction are region (Oblast) level courts, Bishkek City court and the Court Martial of the Kyrgyz Republic. Each of these courts consists of three judicial divisions: division for criminal cases and cases of administrative violations, division for civil cases, and division for administrative and commercial cases. Judicial divisions of appellate jurisdiction courts revise judicial acts that have not come into legal force. These divisions also act as a cassation instance revising judicial acts that have come into legal force.
- The supervisory level – the Supreme Court of the Kyrgyz Republic, consisting of the Plenary Assembly and 3 respective divisions within which, benches of 3 judges are formed to consider cases at law.

Constitutional surveillance is carried out by the Constitutional Chamber of the Supreme Court of the Kyrgyz Republic.

### **Enforcement of Judgment**

Under the legislation of the Kyrgyz Republic<sup>10</sup> the power to enforce decisions, rulings, and resolutions on civil, commercial, administrative cases, as well as sentences, rulings, and resolutions on criminal cases in the part of property claims, rests with the enforcement officer of the court.

In the Kyrgyz Republic, the judicial system includes the Judicial Department of the Kyrgyz Republic, which is the agency tasked to provide material, technical and methodological support to local courts. It also ensures the enforcement of judgments and other acts provided by law and to carry out other activities aimed to create favourable conditions for the full and independent administration of justice.

The Kyrgyz Republic is a party to a number of international treaties under which an interested party may address a claim to a court of the Kyrgyz Republic on recognition and enforcement of a decision issued by a court or arbitration court of another country. The principal treaties are:

- UN Convention on Recognition and Enforcement of Foreign Arbitral Awards of 10<sup>th</sup> June 1958, joined by the Kyrgyz Republic in 1995;
- Convention on Legal Support and Legal Relations between the CIS Countries on Civil, Matrimonial, and Criminal cases of 22<sup>nd</sup> January 1993, ratified by the Kyrgyz Republic in 1995. In 2004 the Kyrgyz Republic also ratified the Convention on Legal Support and Legal Relations on Civil, Matrimonial and Criminal Cases of 7<sup>th</sup> October 2002<sup>11</sup>;
- A number of bilateral agreements on mutual legal support with Azerbaijan, Iran, India, China, Latvia, Mongolia, Russia, Kazakhstan, Uzbekistan, and other nations.

## **1.7 Economy**

The Kyrgyz Republic is rich in natural resources, has a high level of public education, enjoys a geographically favourable location, and is characterized by a mild climate. The country has a vast potential for the development of industrial production, hydro power sector, agriculture, and tourism.

Being a democratic nation, the Kyrgyz Republic promotes a convergent system of economy based upon such key principles as free entrepreneurship, a free pricing system, free competition, and state regulation.

<sup>10</sup> The Law of the Kyrgyz Republic “On Judicial Enforcement Proceedings and Status of Court Enforcement Officers in Kyrgyz Republic” dated 18<sup>th</sup> March, 2002 (with the latest amendments as of 24<sup>th</sup> December, 2009).

<sup>11</sup> The 2002 Convention has superseded the 1993 Convention. However, the 1993 Convention continues to apply to the relations between the Kyrgyz Republic and a member state to this Convention, if the 2002 Convention has not been given effect to the latter.

Development of the industrial sector is represented primarily by electricity production, the non-ferrous metal industry, and food processing. Achievements of the agricultural sector have become possible primarily due to the efforts of peasant farms.

The Kyrgyz Republic ranks 124<sup>th</sup> out of 141 countries in the Forbes 'Best Countries for Business' list 2012<sup>12</sup>. It ranks 125<sup>th</sup> in terms of trade freedom, 13<sup>th</sup> in investor protection, 109<sup>th</sup> in personal freedom, 136<sup>th</sup> and 126<sup>th</sup> in innovation and technology, 134<sup>th</sup> in corruption, 13<sup>th</sup> in red tape, 128<sup>th</sup> in tax burden, and 112<sup>th</sup> in monetary freedom.

### **Key Macroeconomic Indicators<sup>13</sup>**

According to preliminary data from the National Statistics Committee of the Kyrgyz Republic, in January - September 2012, Kyrgyzstan's real GDP has marked 4.6% negative growth, which is 12.9 percentage points lower than that in the corresponding period of 2011, while nominal GDP has reached 203.8 billion KGS. Decline in economic growth is attributable to a significant reduction in industrial production at the Kumtor deposit.

Real GDP, excluding gold production at the Kumtor deposit, grew by 3.8% (vs. 6.0% in January - September 2011) due to a rise in production (excluding Kumtor) by 7.0%, services by 5.0%, and construction by 12.0%.

In January - September 2012, investments in fixed capital from all sources of finance increased by 9.1% compared to the same period last year (vs. 12.5% decline in January - September 2011) totaling KGS 35,379.8 million over the reporting period.

The value of international trade in goods in January - August 2012 reached USD 4245.5 million which is 12.8% more than in the corresponding period of 2011, with USD 3,275.9 million accounting for import (30.4% rise) and USD 969.6 million accounting for exports (22.5% decline).

### **Privatization**

In the Kyrgyz Republic, the legal framework for state property privatization and the legal system for securing property rights of individuals and legal entities were formed between 1991 and 2003.

The first phase (1991-1993) concentrated on privatization of trading, public catering and consumer services enterprises. The second phase (1991-1997) ended up with privatization of large and mid-size industrial production, transport and construction enterprises. The third phase (1998-2003) gave rise to privatization of large strategic enterprises operating in monopolized sectors of the economy and in non-production area.

These economic reforms resulted in active transformation of state ownership. They gave rise to new property relations and led to a significant decrease of the state's ownership stake in all sectors of the economy, except for basic industries. The general level of privatization is now 70%. Many state-owned enterprises have been converted into municipal ownership<sup>14</sup>.

Economic reforms in the country have brought about the following general preconditions for the development of trade and market relations:

<sup>12</sup> [http://www.forbes.com/lists/2011/6/best-countries-11\\_Kyrgyzstan\\_CHI148.html](http://www.forbes.com/lists/2011/6/best-countries-11_Kyrgyzstan_CHI148.html)

<sup>13</sup> [http://www.minfin.kg/index.php?option=com\\_content&view=article&id=1697:-----2012-&catid=56:2010-10-05-10-28-02&Itemid=126](http://www.minfin.kg/index.php?option=com_content&view=article&id=1697:-----2012-&catid=56:2010-10-05-10-28-02&Itemid=126)

<sup>14</sup> [http://www.investment.kg/ru/index.php?option=com\\_content&task=blogcategory&id=21&Itemid=77](http://www.investment.kg/ru/index.php?option=com_content&task=blogcategory&id=21&Itemid=77)

- Private property and freedom of entrepreneurship;
- Elimination of monopoly of state enterprises and collective farms;
- Significant efforts on promotion of broad competition between individual private enterprises, private joint stock companies, joint ventures, foreign companies, farmers' associations, and other forms of business;
- Established two-level system of banking and crediting;
- Liberalized prices.

According to research by the Index of Economic Freedom 2011 Heritage Foundation, the Kyrgyz Republic is one of the “mostly unfree” countries in the world. The Kyrgyz Republic ranks 89<sup>rd</sup> out of 177 countries of the world and 15<sup>th</sup> out of 41 countries of the Asia Pacific region in terms of freedom of economy and its general score is higher than the average score in the region<sup>15</sup>.

In 2009, the President of the Kyrgyz Republic<sup>16</sup> adopted a decision to conduct the analysis of operations of existing public enterprises in terms of their efficiency and, where necessary, to carry out their reorganization and liquidation, privatization and conversion into joint stock companies. At present, the following publicly owned enterprises are active: Kyrgyzpochtasy PE, Kyrgyzaeronavigatsia PE, Kyrgyzdipservice PE, Kyrgyz Temir Jolu National Company PE, Kyrgyzmarkasy PE<sup>17</sup>, Pravitelstvennaya Svyaz PE, Infocom PE, Kyrgyzstroysservice PE, Kyrgyzresursy PE, Komur PE, Kyrgyz Experimental Biofactory PE, Karakol Distillery PE, Kara-Balta Distillery PE, Temir PE, and others.

Also, a decision was adopted to carry out privatization of state shareholdings (up to 10% of the total number of outstanding or initially or additionally issued shares in public offerings) in joint-stock companies with state shareholding<sup>18</sup> by having them listed and publicly traded on the stock exchange. In Kyrgyzstan, the state has ownership interests in 51 joint stock companies, 32 of which have a state controlling stake. Based on their size, the state's stakes in joint stock companies are spread as follows: less than 25% (12), from 25% to 51% (6), from 51% to 100% (33). Among them, the following companies have been listed on stock exchanges in 2008: RSK Bank OJSC, Manas International Airport OJSC, Uchkun OJSC, Ayil Bank OJSC, TNK Dastan OJSC, Kyrgyzneftegaz OJSC, Kyrgyztelecom OJSC, Elektricheskies Stantsii OJSC, Severelectro OJSC.

- Kyrgyz Government Resolution of the 22<sup>nd</sup> of February, 2012 No. 143 “On Draft Program of Privatization of State Property in the Kyrgyz Republic for 2012-2014”.
- Kyrgyz Parliament Resolution of the 8<sup>th</sup> of July, 2011 No. 941-V “On Approval of Program of Efficient Management and Disposal of Nationalized Assets”.

The Kyrgyz Government plans to carry out privatization of the following property in 2012-2014<sup>19</sup>:

- KyrgyzMobileCompany OJSC;
- Entrepreneurship Development Fund OJSC;
- Kyrgyzstan Air Company OJSC;
- JV Italkyr CJSC;
- Orgtekhstroy OJSC;
- KAT LLC;

<sup>15</sup> <http://www.heritage.org/index/pdf/2013/countries/kyrgyzrepublic.pdf>

<sup>16</sup> Edict No.: UP No. 96 of the President of the Kyrgyz Republic dated 10<sup>th</sup> February, 2009.

<sup>17</sup> <http://www.stamp.elcat.kg/>

<sup>18</sup> Report on the Kyrgyz Government's performance in 2008 approved by Resolution No. 115 of Government of the Kyrgyz Republic dated 11<sup>th</sup> February, 2009 (<http://www.gov.kg/images/otchet/otchet2008r.doc>).

<sup>19</sup> Kyrgyz State Property Privatization Program for 2012-2014 approved by Resolution No. 1877-V of the Jogorku Kenesh of the Kyrgyz Republic dated 25<sup>th</sup> April, 2012.

- Kyrgyzcable OJSC;
- BACO OJSC;
- Kitlap LLC;
- Tunguch OJSC;
- SAP Min Bulak OJSC;
- Jumgalsuukurulush OJSC;
- Narynbasmakanasy OJSC;
- Azamat OJSC;
- Kyrzyl-Kiiskii TFZ OJSC;
- Shakhta Besh-Burhankomur LLC; as well as
- 5 resort, recreation and tourism assets;
- 8 healthcare assets;
- 2 agriculture assets;
- 25 other assets.

## 1.8 Foreign Affairs

### Diplomatic Relations with Foreign Nations

Upon declaring its independence in 1991, the Kyrgyz Republic has established diplomatic relations with many countries.

Currently, the Kyrgyz Republic has diplomatic relations with the following nations: Afghanistan, Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Bulgaria, Bosnia and Herzegovina, Brazil, Canada, China, Cuba, Cyprus, the Czech Republic, Denmark, Egypt, Finland, France, Germany, Georgia, Greece, Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kuwait, Latvia, Lithuania, Macedonia, Malaysia, Mexico, Moldova, Mongolia, Morocco, Nepal, the Netherlands, New Zealand, North Korea, Norway, Oman, Palestine, Paraguay, Pakistan, Philippines, Poland, Portugal, Romania, Russia, Saudi Arabia, Serbia and Montenegro, Slovakia, Slovenia, South Korea, the South African Republic, Spain, Sri Lanka, Sweden, Switzerland, Syria, Tajikistan, Turkmenistan, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the United Arab Emirates, Uzbekistan, Vatican, Vietnam, Yemen, Zambia.

The Kyrgyz Republic has set up diplomatic missions to:

- Russian Federation (also covering the Republic of Azerbaijan, the Republic of Georgia, the Republic of Armenia, the Republic of Finland);
- Republic of Ukraine (also covering the Republic of Moldova, the Republic of Romania);
- Republic of Belarus (also covering the Republic of Poland, the Republic of Latvia, the Republic of Lithuania);
- Turkmenistan;
- Republic of Tajikistan;
- Republic of Uzbekistan;
- Republic of Kazakhstan;
- Islamic Republic of Iran;
- People's Republic of China (also covering the Peoples Republic of Mongolia);
- Kingdom of Saudi Arabia (also covering the State of Kuwait, the Arab Republic of Egypt, the State of Qatar);

- Republic of India (also covering the Democratic Socialist Republic of Sri Lanka, the Kingdom of Nepal, and the People's Republic of Bangladesh);
- United Kingdom of Great Britain and Northern Ireland;
- Malaysia (also covering Singapore, the Republic of Indonesia, the Kingdom of Thailand, the Republic of Philippines);
- Japan;
- United States of America (also covering Canada);
- Swiss Confederation (also covering the Principality of Liechtenstein, the Republic of Italy); Permanent Mission to the United Nations and other international organizations based in Geneva;
- Kingdom of Belgium (also covering the Kingdom of Netherlands, the Grand Duchy of Luxembourg, the Republic of France);
- Austrian Republic (also covering the Republic of Hungary, the Republic of Slovakia, the Czech Republic, the State of Israel);
- Federal Republic of Germany (also covering the Holy See (Vatican), the Kingdom of Sweden, the Kingdom of Denmark, the Kingdom of Norway);
- Turkish Republic (also covering the Republic of Macedonia);
- Islamic Republic of Pakistan;
- Republic of Korea.

The Kyrgyz Republic also has the following consular offices:

- A general consulate in Yekaterinburg, the Russian Federation;
- A consular office in Saint Petersburg, the Russian Federation;
- A vice consular office in Novosibirsk, the Russian Federation;
- A general consulate in Almaty, the Republic of Kazakhstan;
- A general consulate in Istanbul, the Republic of Turkey;
- A general consulate in Dubai, the United Arab Emirates;
- A consular agency in Frankfurt am Main, the Federal Republic of Germany;
- A consular office in Karachi, the Islamic Republic of Pakistan;
- A consular office in Meshed, the Islamic Republic of Iran;
- A visa office in Urumqi, the People's Republic of China.

In addition, the Kyrgyz Republic maintains the following permanent missions to international organizations:

- The permanent mission to the United Nations and other international organizations in New York City, USA;
- The permanent mission to the United Nations and other international organizations in Geneva, Switzerland;
- The permanent mission to the Organization for Security and Cooperation in Europe and other international organizations in Vienna, Austria.

### **Participation of the Kyrgyz Republic in International and Regional Organizations**

Currently, the Kyrgyz Republic belongs to 84 international and regional organizations, including the following regional organizations<sup>20</sup>:

- cooperation organizations: the United Nations Organization, the Organization for Security and Cooperation in Europe, the Economic Cooperation Organization, the Organization of the Islamic Conference, the Collective Security Treaty Organization, the Commonwealth of Independent

<sup>20</sup> [http://kg.akipress.org/\\_print.php?db=news&id=53619](http://kg.akipress.org/_print.php?db=news&id=53619)

- States, the Eurasian Economic Cooperation, the Shanghai Cooperation Organization, and the Organization for Economic Cooperation and Development;
- financial institutions: the International Currency Fund, the Asian Development Bank, the International Bank for Reconstruction and Development (the World Bank Group), the International Development Association (the World Bank Group), the European Bank for Reconstruction and Development, and the Islamic Development Bank;
  - trade organizations: the World Trade Organization and the Agency for International Trade, Information and Cooperation;
  - food and agriculture organizations: the Food and Agriculture Organization, the International Centre for Agricultural Research in the Dry Areas, the International Commission on Irrigation and Drainage, the International Water Coordination Commission, the Secretariat of the UN Convention to Combat Desertification, the International Epizootic Bureau, the CIS Intergovernmental Council for Veterinary Cooperation, and the European and Mediterranean Quarantine and Plant Protection Organization;
  - transport and communications organizations: the International Union of Electric Communication, the Universal Postal Union, the International Civil Aviation Organization, and the Coordination Transport Meeting of Railroad Cooperation Organization;
  - labour, social security and migration organizations: the International Labour Organization, the International Social Security Association, the International Association of Pension and Social Funds, and the International Organization for Migration;
  - health care organizations: the International Health Organization, the International Committee of the Red Cross, and the National Red Crescent Society;
  - patent organizations: the World Intellectual Property Organization, the Eurasian Patent Organization, the International Confederation of Societies of Authors and Composers;
  - energy organizations: the Energy Charter Secretariat, and the Energy Regulators Regional Association;
  - environmental and biological safety organizations: the Secretariat of the United Nations Framework Convention on Climate Change and the Kyoto Protocol to the UN Framework Convention on Climate Change, the UN/ECE Convention on Environmental Impact Assessment in a Trans-boundary Context, the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal, the Stockholm Convention on Persistent Organic Pollutants, the Convention on Long-range Trans-boundary Air Pollution, the Vienna Convention for the Protection of the Ozone Layer, the UN Convention on Biological Diversity, and the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora; and
  - natural disaster prevention organizations: the World Meteorological Organization, the Asian Disaster Reduction Centre, the CIS International Council for Natural and Man-made Emergencies, and the CIS International Council for Hydrometeorology.

### **The Economic Cooperation Organization (ECO) – since November 1992**

The key goal of the ECO as an inter-governmental regional institution is to identify the common interests of its member countries in various areas of economic cooperation, to assure their integrated coordination, to make decisions and bring them to the stage of execution. Trade between the Kyrgyz Republic and other ECO member countries represents about 70% of the entire trade volume of the country.

### **The Commonwealth of Independent States (CIS) – since September 1993**

At present, the CIS, being one of the traditional forms of multilateral cooperation between post-Soviet nations, supports the maintenance of previously established relations in the post-Soviet period,

and continues to play a stabilizing role resolving problems in various fields of cooperation among the CIS countries.

The Kyrgyz Republic is genuinely interested in international cooperation. Furthermore it actively participates in the structures of the CIS and within its framework, contributes to the further development of commercial and economic relations between the member countries.

#### **The Organization of the Islamic Conference (OIC) – since December 1992**

One of the areas of the OIC's activities since the disintegration of the Soviet Union is the resolution of economic problems in Islamic countries through the program developed by the OIC to establish a common market of Islamic countries based on the example of the European Economic Union.

#### **The EuroAsian Economic Community (EurAsEC) – since June 2001**

The EurAsEC is the legal successor to the Customs Union (CU) – March 1996.

The principal goals of the EurAsEC in the field of foreign trade and customs policy are: the further development of free trade; the establishment of the single customs tariff and a unified system of non-tariff regulation measures; the introduction of a concurrent system of preferences; the development of a harmonized position of member countries towards the WTO and other international economic structures; the introduction of a unified procedure of currency exchange regulation and supervision; the establishment of an efficient payment and settlement mechanism; economic safety at the external borders of the Community, their consolidation and development, and the alleviation of smuggling and other customs violations.

Economic policy activities include: a harmonized structural reorganization; the development and implementation of joint programs for social and economic development; a common payment system and compatibility of monetary and financial systems. They are also aimed at the establishment of equal conditions for production and business activities and equal access to markets for foreign investment, the establishment of a common transportation services market and a common energy market; joint research and development in priority areas of science and technology; the development of a unified system of legal regulation; and the establishment and operation of financial and industrial groups on a bilateral and multilateral basis.

#### **The Shanghai Cooperation Organization (SCO) – since June 2001**

The principal goals and objectives of the SCO are: to strengthen mutual trust, friendship and neighbourliness between the member countries; to develop multi-industry cooperation for the purpose of supporting and strengthening peace, security and stability in the region; to jointly combat any exhibitions of terrorism, separatism and extremism; to combat illegal drug and arms traffic, other types of transnational criminal practices, and illegal migration; to encourage effective regional cooperation in the areas of common interest; to support integrated and balanced economic growth, social and cultural development of the region by joint actions taken on the basis of equal partnership with the purpose of continuous increase in living standards and conditions for the population in the member countries; to coordinate approaches towards integration into the global economy; to help assure fundamental human rights and freedoms in accordance with international obligations of the member countries and their national legislation; to support and develop relations with other countries and international organizations; to take joint action in the prevention of international conflicts and their peaceful reconciliation; and to jointly search for solutions to problems that may arise in the 21<sup>st</sup> century.

## 2. INVESTMENT CLIMATE

### 2.1 Legal Framework for Investment Activities

Since investments are a major prerequisite for economic development in the Kyrgyz Republic, investment legislation of the country is quite liberal.

The Constitution is the basic and paramount law to which all other laws must conform, including the laws directly or indirectly regulating investment in the Kyrgyz Republic such as the “Law on Licensing”, the “Law on Joint-Stock Companies”, the “Law on Mining”, the “Law on Free Economic Zones in KR”, the Tax Code, the Land Code, the Customs Code, the Civil Code, the “Law on Public-Private Partnership in KR”. Nonetheless, the principal law governing investment is the “Law on Investment in Kyrgyz Republic”<sup>21</sup>.

Thus, under the legislation of the Kyrgyz Republic<sup>22</sup>, foreign investors enjoy the national treatment applied to individuals and legal entities of this country. Legislation provides for a broad scope of rights and guarantees to foreign investors, including guarantees of export and repatriation of investment, property, and information out of the Kyrgyz Republic, guarantees of protection against investment expropriation and coverage of losses incurred by investors, guarantees of income use and freedom of monetary transactions, and others.

The Kyrgyz Republic has entered into a number of bilateral treaties on mutual support, encouragement and protection of investment (capital expenditure). Such treaties have been signed with a number of countries such as<sup>23</sup>:

- The People’s Republic of China (1995);
- The Republic of Turkey (1996);
- The Republic of Ukraine (signed in 1993, not yet effective);
- The United States of America (1994);
- The Republic of Armenia (1995);
- The United Kingdom of Great Britain and Northern Ireland (1998);
- The Republic of France (1997);
- The Islamic Republic of Iran (2002);
- The Republic of Azerbaijan (1997);
- The Federal Republic of Germany (2006);
- The Republic of Georgia (1997);
- The Republic of India (1998);
- The Republic of Kazakhstan (2005);
- The Republic of Belarus (2001);
- The People’s Republic of Mongolia (2001)
- The Swiss Confederation (2003);
- The Republic of Tajikistan (2001);
- The Kingdom of Sweden (2003);
- The Republic of Moldova (2004);
- The Republic of Finland (2004);
- The Republic of Korea (2008);
- The Republic of Latvia (2009);
- The Republic of Lithuania (2008);

<sup>21</sup> [http://www.kgembassy.org/index.php?option=com\\_content&view=article&id=112&Itemid=225](http://www.kgembassy.org/index.php?option=com_content&view=article&id=112&Itemid=225)

<sup>22</sup> The Law of the Kyrgyz Republic “On Investments in the Kyrgyz Republic” dated 27<sup>th</sup> March, 2003 (with the latest amendments as of 22<sup>nd</sup> October, 2009).

<sup>23</sup> In parentheses are the years on which the respective treaties came into effect in the Kyrgyz Republic.

- Denmark (signed in 2001);
- Malaysia (signed in 1995);
- The Islamic Republic of Pakistan (signed in 1995);
- The Republic of Indonesia (signed in 1997);
- The Republic of Uzbekistan (signed in 1997);

The Government of the Kyrgyz Republic has approved draft agreements on mutual support, encouragement and protection of investment with the Czech Republic<sup>24</sup>, the Kingdom of the Netherlands<sup>25</sup> and the United Arab Emirates<sup>26</sup>.

The Ministry of Economic Development and Trade of the Kyrgyz Republic is the authorized executive body responsible for the development of its national investment policy. It drafts and implements a cohesive national macroeconomic, financial, tax and customs policy, in addition to a policy that covers economic development, foreign trade and economic activities, encouraging investment, technical regulation, support and development of entrepreneurship, and the development of free economic zones<sup>27</sup>.

## 2.2 State Guarantees to Foreign Investors

Subject to its legislation<sup>28</sup>, the Kyrgyz Republic provides the following guarantees to foreign investors:

- National treatment of business activities, equal investment rights of domestic and foreign investors, no intervention into the business activities of investors, protection and restitution of infringed rights of investors in accordance with the legislation of the Kyrgyz Republic and international treaties;
- Export or repatriation of profit gained on investment, proceeds of investment activities in the Kyrgyz Republic, property, and information, out of the Kyrgyz Republic;
- Protection against expropriation (nationalization, requisition, or other equivalent measures, including action or omission on the part of authorized government bodies of the Kyrgyz Republic that has resulted in seizure of investor's funds or investor's deprivation of the possibility to use the results of their investment). In exceptional cases involving public interest, investments may be expropriated with concurrent state guarantees of appropriate coverage of damage incurred by the investor;
- The investor's right to freely use the income derived from their activities in the Kyrgyz Republic;
- The freedom to invest in any form into objects and activities not prohibited by the legislation of the Kyrgyz Republic, including the activities subject to licensing;
- Freedom of monetary transactions (free conversion of currency, unbound and unrestricted money transfers; should provisions restricting money transfers in foreign currency be introduced into the legislation of the Kyrgyz Republic, these provisions will not apply to foreign investors, with the exception of cases where investors engage in illegitimate activities (such as money laundering);

<sup>24</sup> Ordinance No. 125-r of the Government of the Kyrgyz Republic dated 12<sup>th</sup> April, 2000.

<sup>25</sup> Ordinance No. 594-r of the Government of the Kyrgyz Republic dated 1<sup>st</sup> October, 2003.

<sup>26</sup> Ordinance No. 367-r of the Government of the Kyrgyz Republic dated 9<sup>th</sup> September, 2013.

<sup>27</sup> Regulation on Ministry of Economy of Kyrgyz Republic dated 20 February 2012 (last modified on 4 June 2013)

<sup>28</sup> Chapter 2 of the Law of the Kyrgyz Republic: "On Investments in the Kyrgyz Republic".

- Free access to open-source information;
- The right to: establish legal entities of any organizational and legal form provided by the legislation of the Kyrgyz Republic; open branches and representative offices within the territory of the Kyrgyz Republic; select any organizational and managerial structure for the business entities, unless a different structure is explicitly required by law for the given organizational and legal form of a business entity; acquire property (with the exception of land plots), shares, other securities, including governmental securities; participate in privatization of state property, establish associations and other unions; hire local and foreign employees subject to legislation of the Kyrgyz Republic; and engage in other investment activities not prohibited by legislation in the Kyrgyz Republic;
- Recognition by public authorities and officials of the Kyrgyz Republic of all intellectual property rights of foreign investors;
- Freedom for the investor to choose within 10 years from the beginning of the investment activity (or within the term provided by the respective investment agreement) conditions most favourable for the investor, should investment, tax, customs legislation of the Kyrgyz Republic (with the exception of the Constitution of the Kyrgyz Republic, laws related to national security, health care, and environment protection) be amended;
- Other guarantees specifically provided in bilateral and multilateral international treaties on the promotion and protection of investment, to which the Kyrgyz Republic is a party.

According to the World Bank's Report, 'Doing Business', 2013, The Kyrgyz Republic ranks 21<sup>st</sup> out of 189 countries of the world in terms of investor protection<sup>29</sup>.

## 2.3 Settlement of Investment Disputes

Under the legislation of the Kyrgyz Republic<sup>30</sup>, investment dispute parties may agree on any judicial institution to settle their dispute; these institutions may include third-party courts located within or outside the Kyrgyz Republic, domestic or international arbitration. Should an agreement thereupon not be reached, the dispute is subject to settlement by the judicial bodies of the Kyrgyz Republic.

Wherever possible, investment disputes shall be settled by consultation between the parties. Should the parties fail to amicably settle their dispute within three months of the date of the first written request for such consultation, any investment dispute between an investor and the public authorities of the Kyrgyz Republic will be subject to settlement by the judicial bodies of the Kyrgyz Republic.

Any of the parties may initiate a settlement by recourse to:

- The International Centre for Settlement of Investment Disputes under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States or procedures regulating use of additional means for the Centre's Secretariat hearing<sup>31</sup>; or
- Arbitration or a provisional international arbitration tribunal (commercial court) established under the arbitration procedures of the UN Commission for International Trade Law (UNCITRAL).

<sup>29</sup> <http://www.doingbusiness.org/data/exploreeconomies/kyrgyz-republic/>

<sup>30</sup> Article 18 of the Law of the Kyrgyz Republic: "On Investments in the Kyrgyz Republic".

<sup>31</sup> The Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 18 March 1965 was ratified in 1997. However, ratifications have not been deposited.

### 3. LEGAL STATUS OF FOREIGN NATIONALS

#### 3.1 Visa and Registration Requirements

Subject to the legislation of the Kyrgyz Republic<sup>32</sup>, foreign nationals and stateless persons may enter the Kyrgyz Republic for temporary or permanent residence on the basis of a visa, temporary or permanent residence permit.

##### Visa Requirements and Visa-Free Travel

Initial issuance of all categories of visas is performed by diplomatic missions and consular offices of the Kyrgyz Republic.

Below is a list of the countries whose nationals are eligible to obtain Kyrgyz entry and exit visas from overseas diplomatic missions and consular offices of the Kyrgyz Republic and from consular offices in the republic at their personal request for a term of 1 month without the need to register with the bodies of the Ministry of Internal Affairs of the Kyrgyz Republic<sup>33</sup>:

- the Republic of Albania, Andorra, Argentina, the Republic of Bulgaria, the Federative Republic of Brazil, the Bolivarian Republic of Venezuela, Vietnam, the State of Israel, the Republic of Indonesia, the Republic of Cyprus, the Republic of Kuwait, the Republic of Macedonia, Mexico, the Sultanate of Oman, the Republic of Romania, San Marino, the Republic of Serbia, the Kingdom of Thailand, the Republic of Turkey, the Philippines, the Republic of Montenegro, the Republic of Chile, the Republic of South Africa.

**Visa-free travel** possibilities are granted on the basis of the legislation of the Kyrgyz Republic<sup>34</sup> and international treaties to which the Kyrgyz Republic is a party. Nationals of the following countries may enter the Kyrgyz Republic visa-free:

- Visa-free entry for up to 60 days for nationals of: the Commonwealth of Australia, the Republic of Austria, the Kingdom of Belgium, Bosnia and Herzegovina, the Vatican, the United Kingdom of Great Britain and Northern Ireland, Hungary, the Federal Republic of Germany, the Netherlands, the Hellenic Republic, the Kingdom of Denmark, Iceland, Ireland, the Kingdom of Spain, the Italian Republic, Canada, the Republic of Korea, Kuwait, the Republic of Latvia, the Republic of Lithuania, the Principality of Liechtenstein, the Grand Duchy of Luxembourg, the Republic of Malta, Monaco, New Zealand, Norway, the United Arab Emirates, the Republic of Poland, the Portuguese Republic, the Kingdom of Saudi Arabia, the Republic of Singapore, the Slovak Republic, the Republic of Slovenia, the United States of America, the Republic of Finland, the French Republic, the Republic of Croatia, the Czech Republic, the Swiss Confederation, the Kingdom of Sweden, the Republic of Estonia, the State of Qatar, the State of Brunei Darussalam, the Kingdom of Bahrain;
- Visa-free entry for holders of all categories of passports of nationals of: the Republic of Armenia, the Republic of Azerbaijan, the Republic of Belarus, the Republic of Cuba, the Republic of Georgia, Japan, the Republic of Kazakhstan (up to 60 days), the Democratic People's Republic of Korea, Malaysia (for business purposes or tourism for the period up to 1 month), the Republic

<sup>32</sup> The Law of the Kyrgyz Republic "On External Migration" dated 17<sup>th</sup> July 2000, No. 61 (with the latest amendments as of 17<sup>th</sup> March, 2012).

<sup>33</sup> Resolution No. 87 of the Government of the Kyrgyz Republic dated 7<sup>th</sup> February, 2009.

<sup>34</sup> The Law of the Kyrgyz Republic "On Introduction of Visa-free Regime for Citizens of Some States for up to 60 Days" dated 21<sup>st</sup> July, 2012 No. 121

of Moldova, the People's Republic Mongolia (up to 3 months), the Russian Federation (up to 90 days), the Republic of Tajikistan, the Republic of Ukraine (up to 90 days), the Republic of Uzbekistan (up to 60 days), Vietnam.

- Visa-free entry for up to 1 month for nationals holding diplomatic and service passports of: the People's Republic of China, the Republic of Hungary, the Islamic Republic of Iran, Turkmenistan, and the Republic of Uzbekistan, Singapore.
- Visa-free entry for nationals holding diplomatic passports of: the Republic of Austria, the Kingdom of Belgium, Canada, the Kingdom of Denmark, the Republic of Finland, the Republic of France, the Federal Republic of Germany, the Republic of Greece, the Republic of Iceland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Kingdom of Norway, the Republic of Portugal, the Kingdom of Spain, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.

### Visa Categories

- Diplomatic (issued to foreign nationals holding diplomatic passports and entering the Kyrgyz Republic for official purposes or for transit travel through its territory);
- Service (issued to foreign nationals holding service passports and entering the Kyrgyz Republic for official purposes or for transit travel through its territory);
- Common (issued to foreign nationals entering the Kyrgyz Republic for business purposes);
- Investment (issued to prospective investors entering the Kyrgyz Republic with the intent to engage in investment activities and providing required supporting documentation that proves their production-related contribution of money and valuables into the economy of the Kyrgyz Republic of \$20,000 or more for one year, over USD 200 thousand for three years and over USD 500 thousand for 5 years);
- Tourist (issued to foreign nationals entering the Kyrgyz Republic as tourists);
- Work (issued to foreign nationals entering the Kyrgyz Republic for work);
- Study (issued to foreign nationals entering the Kyrgyz Republic for study);
- Private (issued to foreign nationals entering the Kyrgyz Republic for private purposes, such as visiting family and friends, undergoing medical treatment); and
- Permanent residence (issued to foreign nationals entering the Kyrgyz Republic for permanent residence).

Visas may be single-entry, double-entry, or multiple. A foreign national receiving a visa shall pay a state duty or a consular fee in the amount set forth in the respective resolution of the Government of the Kyrgyz Republic.<sup>35</sup>

<sup>35</sup> Resolution No. 521 of the Government of the Kyrgyz Republic dated 18<sup>th</sup> July, 1994 (with the latest amendments as of March 22, 2013), Resolution No. 839 of the Government of the Kyrgyz Republic dated December 18, 2012.

## Residence Permit

A Kyrgyz residence permit is a document allowing foreign nationals and stateless persons to, temporarily or permanently, reside, stay, enter or exit from the Kyrgyz Republic visa free.

Under Kyrgyz legislation<sup>36</sup>, foreign nationals or stateless persons residing in the Kyrgyz Republic for not less than 6 months may file with the bodies of the Kyrgyz Ministry of Internal Affairs closest to the place of location an application for residence permit.

### **A temporary residence permit is issued to foreign nationals or stateless persons in order to:**

- Work in the Kyrgyz Republic;
- Study in an educational institution at the request of this educational institution and the Kyrgyz Ministry of Education and Science;
- Pursue investment activities in the Kyrgyz Republic.

A temporary residence permit is issued to foreign nationals and stateless persons for a term of 1 year with the possibility of subsequent extension for not more than 5 years.

The application for a temporary residence permit is generally reviewed within not more than 1 month.

Temporary residence permits are issued in the local office of the Department of Registration of Population under the State Registration Service under the Government of the Kyrgyz Republic.

Permanent residence permits are issued to:

### **Permanent residence permits** are issued to:

- Those who have duly received a Kyrgyz permanent residence permit, including those who returned to the Kyrgyz Republic, whose Kyrgyz citizenship has been terminated in accordance with law;
- Those who permanently reside in the Kyrgyz Republic but have not received Kyrgyz citizenship or whose Kyrgyz citizenship has been terminated in accordance with law;
- Foreign nationals or stateless persons permanently residing in the Kyrgyz Republic upon the attainment of 18 years of age.

Foreign nationals are issued permanent residence permits for a term of 5 years, but not longer than the foreign passport validity period, and upon the attainment of 45 years of age for the entire validity period of the foreign passport. Stateless persons are issued permanent residence permits for a term of 5 years, and upon the attainment of 45 years of age, for an unlimited term.

The application for a permanent residence permit is reviewed within 1 year from the date of filing the application.

The permanent residence permits are given out in the Department of Registration of Population under the State Registration Service under the Government of the Kyrgyz Republic.

Upon receipt of the residence permit, foreign nationals or stateless persons must within 5 business days file for registration with the territorial bodies of the Department of Registration of Population

<sup>36</sup> Regulation on procedure for issuing temporary and permanent residence permits to foreign nationals and stateless persons in the Kyrgyz Republic approved by Resolution No. 626 of the Government of the Kyrgyz Republic dated 13<sup>th</sup> November, 2008 (as last amended 9<sup>th</sup> February, 2011).

under the State Registration Service under the Government of the Kyrgyz Republic that are closest to the place of temporary or permanent residence.

### **Registration Procedure**

Foreign nationals and stateless persons (except foreign nationals exempt from registration) entering the Kyrgyz Republic for the period of more than 5 business days, must register a place of residence with the territorial subdivisions of the Ministry of Foreign Affairs of the Kyrgyz Republic, the territorial subdivisions of the Ministry of Internal Affairs of the Kyrgyz Republic, or with a hotel<sup>37</sup>.

To work in the Kyrgyz Republic, foreign nationals or stateless persons must have a work permit. For more details on work permits for foreign nationals refer to Section 10.2.

## **3.2 Basic Rights, Freedoms, and Obligations of Foreign Nationals**

Foreign nationals within the territory of the Kyrgyz Republic generally enjoy the same rights and bear the same obligations as the nationals of the Kyrgyz Republic<sup>38</sup>. Foreign nationals are equal under the law, regardless of sex, race, language, disability, ethnic origin, creed, age, political or other beliefs, education, social origin, property or other status, and other circumstances.

Foreign nationals are entitled to work when it is compatible with the purpose and timeframe of their visit to the Kyrgyz Republic, or when a respective permit has been issued.

Foreign nationals permanently residing in the Kyrgyz Republic are entitled to social services and healthcare, and may join public associations of non-political purposes on the same grounds as nationals of the Kyrgyz Republic unless otherwise provided in charters (bylaws) of such associations.

Foreign nationals have the same right to leisure as citizens of the Kyrgyz Republic, enjoy cultural benefits and have property and personal non-property rights and all other rights equivalent to nationals of the Kyrgyz Republic.

A foreign national can freely move throughout the territory of the Kyrgyz Republic and choose a place of residence in the manner provided by Kyrgyz law. In which case, they are guaranteed inviolability of person and dwelling.

Foreign nationals are required to pay taxes and charges on the same basis as Kyrgyz nationals, unless otherwise provided by Kyrgyz law.

Foreign nationals in the Kyrgyz Republic have the right to refer to court and other government bodies for protection of their personal, property, family and other rights. They enjoy the same litigation rights as Kyrgyz nationals.

A foreign national staying in the Kyrgyz Republic is provided with the opportunity to contact the diplomatic or the consular mission of his own country, or if such is not available, the diplomatic or consular mission of another country authorized to protect the rights and legal interests of nationals of his country of citizenship.

<sup>37</sup> Article 8 of the Law of the Kyrgyz Republic: "On External Migration".

<sup>38</sup> KR Law: "On Legal Status of Foreign National in the Kyrgyz Republic" of 14<sup>th</sup> December, 1993 (with the latest amendments as of October 11, 2011)

## 4. FORMS OF BUSINESS

### 4.1 Branches and Representative Offices of Foreign Legal Entities

Branches and representative offices of foreign companies are not considered to be Kyrgyz legal entities. They are endowed with the property of their foreign founders, and act on the basis of the approved bylaws. The legislation of the Kyrgyz Republic distinguishes between branches and representative offices. The functions of representative offices are limited to representing a foreign legal entity and protecting its interests, performing transactions and other legal actions on behalf of the same. Branches, on the other hand, fulfil all or part of the functions of the foreign founder, including representation. The chiefs of the branch / representative office act under a power of attorney issued by the main / head office.

Under the legislation of the Kyrgyz Republic<sup>39</sup>, branches and representative offices have the following rights and obligations:

- To open bank accounts and execute payments in any currency;
- To hire local employees;
- To hire foreign employees and obtain relevant work permits for them;
- To enter into any contractual relations with local and foreign companies and execute/assume liabilities under any agreements providing for payments in local or foreign currency; and
- To have permits for purchase or lease of immovable property.

The legislation of the Kyrgyz Republic provides for a number of restrictions with respect to branches and representative offices. Thus, a branch or representative office may only exist as long as their parent company exists. A branch or representative office may not be licensed to perform certain types of activities or provide certain types of services.

### Registration of Branches and Representative Offices

Branches and representative offices located within the Kyrgyz Republic, with the exception of branches and representative offices established within free economic zones, are subject to mandatory registration.

Registration of branches and representative offices of foreign legal entities is carried out by the Ministry of Justice of the Kyrgyz Republic or its subdivisions<sup>40</sup>. For the purposes of registration, a foreign legal entity must submit the following documents<sup>41</sup>:

- (i) The application for registration;
- (ii) The resolution of the authorized body of the foreign legal entity to establish the branch or representative office;
- (iii) A copy of the certificate of state registration (re-registration) of the legal entity;

<sup>39</sup> The Law of the Kyrgyz Republic "On Business Partnerships and Companies" dated 15<sup>th</sup> November, 1996 (with the latest amendments as of 12<sup>th</sup> October, 2009).

<sup>40</sup> Free-trade zone branches and representative offices of non-free-trade zone enterprises are subject to registration with the General Directorate of Free-Trade Zone. The General Directorate of Free-Trade Zone establishes the registration procedures for business entities with foreign investment.

<sup>41</sup> Article 10 and 15 of the Law of the Kyrgyz Republic "On State Registration of Legal Entities, Branches (Representative Offices)" dated 20<sup>th</sup> February, 2009 (last amended 13<sup>th</sup> December, 2012).

- (iv) A legalized<sup>42</sup> excerpt from the trade register or other proof that the foreign legal entity is in good standing under the laws of its country.
- (v) A copy of passport (or other document deemed to be the proof of identity under Kyrgyz law) of an individual being the head of the branch or representative office.

For the establishment of a branch or representative office of a foreign bank, a permit of the National Bank of the Kyrgyz Republic is required.

For registration of their branches (representative offices), financial institutions, foreign or international organizations additionally submit the following documents to the registering authority:

- approved bylaws of the branch (representative office) in 2 copies;
- copies of foundation documents of the financial institution, foreign or international organization that made a decision to create a branch (representative office).

### Liquidation of Branches and Representative Offices

To liquidate a branch or representative office, the following documents need to be submitted to the registering authority<sup>43</sup>:

- (i) The application for registration;
- (ii) The decision of the authorized body or court to liquidate the branch or representative office;
- (iii) The original of the certificate of registration (re-registration) of the branch or representative office;
- (iv) A statement from a closed bank account(s);
- (v) A statement of surrender of seals and stamps of the branch or representative office to the internal affairs authority;
- (vi) A statement of no tax due to the subdivision of the Kyrgyz State Committee for Taxes and Charges; and
- (vii) Statement of no social security payments due to the subdivision of the Social Fund of the Kyrgyz Republic.

Registration of branches and representative offices, as well as registration of their liquidation, are carried out by the Ministry of Justice of the Kyrgyz Republic and its subdivisions.

## 4.2 Legal Entities

A variety of organizational legal forms of legal entities exist in the Kyrgyz Republic, the most common being:

- Limited liability companies; and
- Joint stock companies (open or closed).

The key legal acts regulating activities of legal entities are the Civil Code of the Kyrgyz Republic<sup>44</sup>, the Law of the Kyrgyz Republic “On Business Partnerships and Companies”, and the Law of the Kyrgyz Republic “On Joint Stock Companies”<sup>45</sup>.

<sup>42</sup> Document legalization is carried out by Kyrgyz consular offices to respective foreign states or, where no such consular offices exist, by the consular offices of the Republic of Kazakhstan and the Russian Federation. Under Kyrgyz Law of 16<sup>th</sup> November, 2009, the Kyrgyz Republic has acceded to the Hague Convention abolishing the requirement of legalization for foreign public documents.

<sup>43</sup> Article 17 of the Law: “On State Registration of Legal Entities, Branches (Representative Offices)” dated February 20, 2009 (with latest amendments as of December 13, 2012).

<sup>44</sup> Part I of the Civil Code of the Kyrgyz Republic dated 8<sup>th</sup> May, 1996 (with the latest amendments as of 30<sup>th</sup> May, 2013).

<sup>45</sup> The Law of the Kyrgyz Republic “On Joint Stock Companies” dated 27<sup>th</sup> March 2003 (with the latest amendments as of 29<sup>th</sup> May, 2012).

### Limited Liability Companies

A limited liability company (LLC) is one of the most widespread types of legal entities in the Kyrgyz Republic, having a number of advantages:

- The participants in a LLC are not liable for its obligations, and their risk of losses that may be incurred as a result of the company performance is limited to the amount of their respective contributions; and
- The structure and powers of management bodies of a LLC are not subject to detailed legislative regulation, therefore, management and decision making in a LLC are more flexible.

The minimum charter capital of a LLC is KGS 1 (approximately USD 0.02 as of July 2013).

It must be noted that, subject to the legislation of the Kyrgyz Republic<sup>46</sup>, a LLC may not have as its sole participant another business entity consisting of a single person.

The number of participants in a LLC may not exceed 30; otherwise the LLC must be reorganized into a joint stock company within 1 year. Should a LLC fail to comply with this requirement, it will be subject to liquidation by court order.

### Joint Stock Companies

A joint stock company is another popular form of a legal entity as shareholders are not liable for the obligations of the company. Also, the risk of losses that they may incur as a result of the company performance is limited to the value of shares owned by the shareholders.

A joint stock company must issue shares in the national currency of the Kyrgyz Republic, regardless of the form of original contribution. In addition to shares, joint stock companies may issue other securities (such as debenture bonds) to raise working capital.

Under Kyrgyz law<sup>47</sup>, a founder legal entity consisting of a single participant/shareholder may not act as the sole founder/shareholder of a joint stock company.

The minimum charter capital of a joint stock company is 100,000 KGS (approximately USD 2,061 as of July 2013). As of the date of founding, the charter capital must be fully paid in and distributed among the founders.

Joint stock companies established in the Kyrgyz Republic may be either open or closed.

A closed joint stock company is a joint stock company whose shares may only be distributed among its founders or within another predetermined group. A closed joint stock company may not carry out a public/open placement of shares issued or otherwise offer them to an unlimited group of persons. The number of shareholders in a closed joint stock company may not exceed 50; should the number of shareholders in a closed joint stock company exceed 50, the company must be reorganized into an open joint stock company within 1 year. Upon expiry of this period, the company will be subject to liquidation by court order. Shareholders of a closed joint stock company have pre-emptive right to purchase shares offered for sale by other shareholders of the same company.

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<sup>46</sup> Article 128 of the Civil Code of the Kyrgyz Republic.

<sup>47</sup> Article 143 of the Civil Code of the Kyrgyz Republic.

An open joint stock company is a joint stock company the participants of which may alienate their shares without the consent of other shareholders. An open joint stock company may carry out open subscription to the shares it issues and may freely sell them on conditions established by law. An open joint stock company that has 500 shareholders or more and has carried out at least one public/open placement of securities must annually within 2 months after the last annual meeting of shareholders, but no later than June 1<sup>st</sup> of the year following the reporting year, publish in the media an annual report on its financial and business performance.

### 4.3 Registration of Legal Entities

According to the World Bank's Report; 'Doing Business', 2013, the Kyrgyz Republic ranks 15<sup>th</sup> out of 183 countries in terms of the challenges of launching a business<sup>48</sup>. This ranking was improved by the Kyrgyz Government after introducing a "one-stop-shop" mechanism facilitating the procedure for the registration of business entities<sup>49</sup>.

In the Kyrgyz Republic legal entities obtain the respective status upon their state registration with the Ministry of Justice of the Kyrgyz Republic or its subdivisions. Registration of legal entities, branches or representative offices in the Kyrgyz Republic is based on "registration by notification" and "one-stop-shop" principle. State registration of a legal entity is performed within 3 business days<sup>50</sup> from the date of filing the necessary documents for a specified fee.

To be registered, a legal entity must submit the following documents<sup>51</sup>:

- (i) The application for registration;
- (ii) The decision of the founder(s) to establish a legal entity;
- (iii) A legalized excerpt from the trade register or other proof that the foreign legal entity is in good standing under the laws of its country.
- (iv) A copy of passport (or other document deemed to be the proof of identity under Kyrgyz law) of an individual being the head of the branch or representative office.

For the establishment of a branch or representative office of financial institutions, foreign or international organizations, a written consent of the National Bank of the Kyrgyz Republic is required.

For registration of financial institutions, the following documents are additionally submitted to the registering authority:

- The application for registration;
- The decision of the founder(s) to approve (execute) the foundation documents and to elect the management bodies of the financial institution;
- The charter signed by the head of the financial institution in 2 copies;
- The foundation agreement of the financial institution signed by all its founders in 2 copies.

### 4.4 Business Reorganization and Restructuring

Reorganization of a legal entity (merger, acquisition, split-up, spin-off, and conversion) may be carried out by the decision of its founders/participants or the body of the legal entity authorized by

48 <http://www.doingbusiness.org/data/exploreeconomies/kyrgyz-republic/>

49 Resolution No. 182 of the Government of the Kyrgyz Republic dated 23rd April 2008 (last amended 19th May, 2009).

50 State registration of financial institutions, non-commercial organizations, as well as branches of financial institutions, foreign and international organizations within 10 calendar days from the date of submitting necessary documents to the registering authority.

51 Articles 10 and 11 of the Law: "On State Registration of Legal Entities, Branches (Representative Offices)".

its founding documents, or, the regulatory authority for banks, financial institutions or other entities licensed to perform operations being their only permitted activity .

To restrict monopolistic practices, commercial organizations may be subject to compulsory reorganization by court order under the circumstances and in the manner provided by law.

**A merger of legal entities** is an arrangement whereby their rights and obligations are transferred to the newly established legal entity under a transfer deed.

**An acquisition** of a legal entity by another legal entity is an arrangement whereby the rights and obligations of the acquired company are transferred to the acquiring legal entity under a transfer deed.

**A split-up** of a legal entity is an arrangement whereby its rights and obligations are transferred to the newly established legal entities under a separation balance sheet.

**A spin-off** of one or more legal entities from the original legal entity is an arrangement whereby the rights and obligations of the reorganized legal entity are transferred to each of them under a separation balance sheet.

**A conversion** of a legal entity of a given type into a legal entity of another type (change in the legal form of organization ) is an arrangement whereby the rights and obligations of the reorganized legal entity are transferred to the newly established legal entity under a transfer deed.

A transfer deed and a separation balance sheet are the documents required for reorganization of a legal entity. They must contain provisions on legal succession with respect to all liabilities of the legal entity reorganized. The transfer deed and separation balance sheet shall be approved by the founders/participants of the legal entity or the authority that has taken the decision to reorganize, and shall be submitted together with the founding documents for state registration of the newly established legal entities or for amendment of the founding documents of existing legal entities.

In the case of reorganization of a legal entity, its founders must notify the creditors in writing to this effect. Under Kyrgyz law, in case of reorganization of business entities under the circumstances provided by the anti-monopoly law, the consent of the anti-monopoly authority of the Kyrgyz Republic is required.

## 4.5 Business Closure

Liquidation of a legal entity entails its termination without transferring its rights and obligations to any other persons.

A legal entity may be liquidated:

- By the decision of the founders (participants) or the authorized body of the legal entity under the circumstances provided by the founding documents, including in connection with the expiration of the term for which the legal entity was established, or achievement of the purpose for which it was established, or invalidation of registration of the legal entity by the court as being established with irremediable violations of law; or
- By the decision of the court in the event of engaging in business without proper permit (license) or in business prohibited by law, or with other repeated or gross violations of law, or in the event of persistent engaging in business that is contrary to statutory goals of the legal entity; or in the event of revoking the license of banks, financial institutions, or other entities licensed to perform operations being their only permitted activity; and in such other cases as may be provided by law.

Liquidation of banks or financial institutions licensed by the National Bank of the Kyrgyz Republic occurs in the event of revocation of the banking license, subject to specific requirements for banks and other financial institutions.

The authorized body of the legal entity or the court that made a decision to liquidate the legal entity must notify the registration authority to this effect in writing within 3 business days enclosing a copy of the decision to liquidate the legal entity and to elect (appoint) the liquidation committee (liquidator)<sup>52</sup>. To register its termination, the legal entity must submit to the registration authority the following documents:

- (i) The application for termination of registration;
- (ii) The decision of the authorized body of the legal entity or the court to liquidate the legal entity and to elect (appoint) the liquidation committee (liquidator);
- (iii) The original of the certificate of state registration (re-registration) of a legal entity;
- (iv) A statement of no social security payments due to the subdivision of the Social Fund of the Kyrgyz Republic;
- (v) A statement of no tax due to the subdivision of the State Tax Service under the Government of the Kyrgyz Republic;
- (vi) A statement from the closed bank account(s);
- (vii) A statement of surrender of seals and stamps to the internal affairs authority;
- (viii) The decision to approve the liquidation balance sheet;
- (ix) The liquidation balance sheet marked as accepted by the subdivision of the State Tax Service under the Government of the Kyrgyz Republic;
- (ix) A statement of repositioning the documents of the liquidated legal entity with the Kyrgyz Archives Agency.

According to the World Bank's Report, 'Doing Business', 2012, the Kyrgyz Republic ranked 155<sup>th</sup> out of 183 countries in terms of time and cost required to close a business<sup>53</sup>. In order to improve the said ranking, the Kyrgyz Government resolved to develop recommendations for facilitation of procedures for company liquidation or bankruptcy<sup>54</sup>.

## 4.6 Business Activity without Creating a Legal Entity

Under Kyrgyz law<sup>55</sup>, a business can be organized as a legal entity or its branch, or as a sole proprietorship, which is a non-corporate form of doing business. Nationals of the Kyrgyz Republic, foreign nationals, and stateless persons permanently or temporarily residing within the territory of the Kyrgyz Republic may do business as sole proprietors.

Such form of business organization is not only attractive due to its simplified structure, state registration requirements and accounting procedures, but is also risky in terms of unlimited property liability for business obligations.

Under Kyrgyz law, a business can be operated as a sole proprietorship in two ways:

- Based on a certificate of state registration as a sole proprietor;
- Based on a patent.

52 Article 13 of the Law: "On State Registration of Legal Entities, Branches (Representative Offices)".

53 <http://www.doingbusiness.org/data/exploreeconomies/kyrgyz-republic/#resolving-insolvency>

54 Resolution No. 126 of the Government of the Kyrgyz Republic dated 4<sup>th</sup> April, 2008 (with latest amendments as of December 5<sup>th</sup>, 2008).

55 Regulation on procedure of state registration of sole proprietors in the Kyrgyz Republic; approved by Government Resolution No. 404 of 2<sup>nd</sup> July, 1998 (with latest amendments as of November 13<sup>th</sup>, 2008).

A certificate of state registration as a sole proprietor is issued by the local subdivisions of the Kyrgyz National Statistics Committee that are closest to the place of residence of a sole proprietor.

Once registered as a sole proprietor, it is necessary to apply for registration as a taxpayer or social insurance payer with the respective subdivisions of the Kyrgyz State Committee for Taxes and Charges and the Social Fund.

When running their business, a sole proprietor must keep simplified accounting books reflecting income gained and expenses incurred. Income and expenses shall be recorded in a special Income and Expenditure Log that must be numbered, laced, sealed, and registered with the local subdivisions of the Kyrgyz State Committee for Taxes and Charges.

Sole proprietors may engage in entrepreneurial activities without the need to register with the local offices of the Kyrgyz National Statistics Committee, provided that they operate on the basis of a patent, if the respective business activities are included in the conclusive list of patent-based activities<sup>56</sup> or if such activities are subject to mandatory taxation on a patent basis<sup>57</sup> (for more detail on patenting refer to Section 6.11).

A patent is a document issued by the State Tax Service of the Government of the Kyrgyz Republic to certify payment of the respective tax by individuals in the area of their registration (permanent residence) or main place of business. Thus, a sole proprietor operating on the basis of a patent is not required to report to tax authorities and only needs to purchase a patent and then keep extending its validity period. The patent validity period varies from 1 month to 1 year.

A patent holder is not required to keep record of income and expenses in connection with the activities stated in the patent during the patent validity period, nor is he required to pay income tax on this income, nor is he required to include the above income in the aggregate annual income when declaring his income at the end of the year, as is required by law for a sole proprietor operating on the basis of the certificate of state registration.

Thus, the law sets forth both voluntary and mandatory patenting procedures depending on the type of business. However, if a sole proprietor operating on the basis of a patent receives income, which, during a calendar year, exceeds a threshold for VAT registration (for more detail refer to Section 6.3), a tax authority must stop issuing patents and require this sole proprietor to register for VAT and to receive a certificate of registration as a sole proprietor.

A sole proprietor may terminate its operation on the basis of their own application or court decision. In which case, termination is performed in accordance with the company liquidation rules.

## 4.7 Free Economic Zones

Free economic zones (the FEZ) are the zones where foreign economic and business activities<sup>58</sup> are subject to preferential legal treatment.

Companies working in free economic zones enjoy the following benefits and preferences:

<sup>56</sup> Resolution No. 733 of the Government of the Kyrgyz Republic dated 30<sup>th</sup> December, 2008 (with the latest amendments as of 10<sup>th</sup> June, 2011).

<sup>57</sup> Resolution of the Legislative Assembly of the 'Jogorku Kenesh' of the Kyrgyz Republic No.3 418-II of 29<sup>th</sup> June, 2001 (with the latest amendments as of 26<sup>th</sup> December, 2003).

<sup>58</sup> The Law of the Kyrgyz Republic "On Free Economic Zones in the Kyrgyz Republic" dated 16<sup>th</sup> December 1992 (with the latest amendments as of 7<sup>th</sup> July, 2011).

- Partial exemption from all taxes, dues, fees, and charges, for the entire period of activities within the free economic zone;
- Allocations in the amount of 0.1 to 2% from the annual proceeds from goods and services to the General Directorate of the free economic zone for the tax and other benefits enjoyed within its territory<sup>59</sup>;
- Complete exemption from customs duties on export of merchandise produced in the free economic zone, on import of merchandise into the free economic zone, and on merchandise for re-export;
- For merchandise produced within the territory of a free economic zone with the purpose of further export - exemption from quotas (with the exception of export into the customs territory of the Kyrgyz Republic, where volume of export may not exceed 30% of the total annual volume of merchandise produced within the free economic zone) and exemption from licensing;
- Simplified entry and exit procedure for foreign employees;
- Simplified and accelerated registration of a business entity;
- Simplified customs procedures; and
- Direct access to major infrastructure objects, including telecommunications, water supply, power supply, and transportation, in the course of activities within the territory of a free economic zone.

Companies registered in free economic zones may not:

- Sell within territories of free economic zones of the Kyrgyz Republic; petroleum, oil and lubricant materials, spirits and liqueurs or tobacco products to individuals or legal entities other than the free economic zone subjects; and
- Sell merchandise produced in a free economic zone in the domestic market of the Kyrgyz Republic in cases where value added within the territory of the free economic zone does not exceed 30% (15% for electronics and household appliances).

Companies interested in operating in a free economic zone must be registered in it. Procedure for registration of business entities with foreign interest is established by the General Directorate of a free economic zone.

Currently, there are 4 free economic zones functioning within the territory of the Kyrgyz Republic: the **Bishkek** FEZ, the **Maimak** FEZ, the **Naryn** FEZ, and the **Karakol** FEZ and **Leilek** FEZ<sup>60</sup>.

At present, the Kyrgyz Government considers establishing a working group to consider the efficacy of FEZ and to improve FEZ legislation. The current legislation will be modified to reflect changes in regulating territorial issues, management structure of FEZ, sale of products manufactured in FEZ, etc.

<sup>59</sup> For more detail on FEZ taxation refer to Section 6.11.

<sup>60</sup> Resolutions of the Government of the Kyrgyz Republic No. 160 dated April 19, 1993 (with the latest amendments as of 29<sup>th</sup> June, 2007), No. 13 dated 12<sup>th</sup> January, 1994 (with the latest amendments as of 11<sup>th</sup> August, 1994), No. 474 dated 11<sup>th</sup> November, 1995 (with the latest amendments as of 26<sup>th</sup> September, 2008), No. 357 dated 20<sup>th</sup> June, 1997 dated 23<sup>rd</sup> July 2012 No. 518.

## 5. LICENSES AND PERMITS

### Legislation

Licensing is regulated by the Law of the Kyrgyz Republic “On Licensing and Permits System in the Kyrgyz Republic”<sup>61</sup>. Banks, financial/lending institutions, and other institutions regulated by the National Bank of the Kyrgyz Republic are licensed subject to special laws<sup>62</sup> to the extent not inconsistent therewith. Licensing regime for the mining sector is established in accordance with the mining law of the Kyrgyz Republic. Licenses are issued on equal conditions and grounds to all persons (including stateless persons), regardless of the form of ownership.

Licenses are only required for activities and operations specified by law and to the extent necessary to maintain national security, government monopoly, law and order and to protect the environment, ownership, life and health of citizens. Under Kyrgyz law, licensing is mandatory for the following activities:

- Production, transmission, distribution, sale, export and import of electricity (except electricity produced from renewable sources or from other sources for personal use with capacity up to 1,000 kWh);
- Production, transmission, distribution, sale, export and import of heat (except heat produced from renewable sources or from any sources for personal use);
- Processing of oil and natural gas, except industrial-scale production and sale of bioethanol produced from vegetable feed;
- Production, transfer, distribution, and sale of natural gas;
- Production and distribution of ethyl alcohol;
- Production and distribution (storage for production or sale purposes, wholesale and retail trade) of alcoholic products;
- Private medical practice (except under a service or employment contract with private medical institutions or individual entrepreneurs);
- Production, manufacture and sale of medicines and medical equipment;
- Production and sale of vaccines and serums in specialized veterinary enterprises;
- Activities involving work with RG2 microorganisms;
- Activities in the field of electric communication;
- Activities in the field of postal communication;
- Activities in the field of data transfer;
- TV and radio broadcasting activities, including production, transmission, and distribution of broadcasting programs;
- Urban planning, research and design of residential, public and production buildings and structures (Category I, II and III facilities);
- Construction and installation operations, except construction of individual residential houses (Category I, II and III facilities);
- Passenger transport services by motor vehicle (except taxi cars);
- International cargo transportation by truck;
- Passenger and (or) cargo transportation by air;
- Aircraft ground handling in airports (aerodromes) during arrival and departure, except maintenance and (or) repair of aircrafts;
- Passenger and (or) cargo transportation by water;
- Banking operations specified under Article 2.4.2 of the Law “On Licensing and Permit System in the Kyrgyz Republic”;
- Credit union activities;

61 The Law of the Kyrgyz Republic “On Licensing and Permits System in the Kyrgyz Republic” dated October 19, 2013.

62 For more information on banking refer to Section 9.

- Microfinance activities;
- Pawn shop activities;
- Foreign currency exchange services;
- Payment intermediary services effectuated through IT-based and electronic payment systems;
- Acceptance, processing, and issuance of financial information (processing and clearing services) relating to payments and settlements between third parties and participants of the payment system of a given processing or clearing center;
- Betting office and bookmaker activities;
- Lottery activities (except stimulating lottery);
- Transportation (including trans-boundary transportation) of toxic substances, including radioactive waste;
- Design, manufacture and sale of military products (munitions, military equipment, military-technical property, documentation, intellectual property, military-technical information referred to military products under Kyrgyz law) and military services (maintenance, upgrade, disposal of munitions, military equipment and their transportation, supply, and storage);
- Production, use, disposal of industrial explosive materials;
- Sale of explosive substances and products (including pyrotechnic ones);
- Production, repair, and trade in weapons and munitions;
- Design, production, manufacture, processing, storage, issue, sale, purchase and distribution of narcotic drugs, psychotropic substances and their precursors;
- Advocate practice;
- Private notarial practice;
- Voluntary universal life insurance services;
- Voluntary personal insurance services;
- Voluntary property insurance services;
- Voluntary liability insurance services;
- Mandatory insurance services;
- Mandatory and voluntary inward reinsurance services;
- Non-governmental pension fund activities;
- Organized market for trading securities;
- Securities broker services;
- Security holders registry keeper services;
- Securities depository services;
- Securities dealer services;
- Investment fund activities;
- Investment trust activities;
- Audit services;
- Bankruptcy administration services;
- Design, installation, adjustment and repair of anti-fire automatic devices; flameproofing of wooden structures and combustible theatrical display equipment;
- Educational activities (except state and municipal educational institutions carrying out pre-school, primary, basic and secondary general education programs);
- Import, export of specific goods according to the list approved by the Government of the Kyrgyz Republic;
- Import, export, re-export of goods included in the National checklist of controlled products of the Kyrgyz Republic approved by the Government of the Kyrgyz Republic.

Also, licensing is mandatory for the following activities involving the use of limited public resources:

- Using radio frequency spectrum to provide electrical communication and (or) data transmission services;

- Taking timber from the woodland at woods of the forestry fund (felling license, small-scale timber supply permit);
- Taking flora resources for commercial purposes (flora resources taking permit, forest use permit);
- Disposal, storage, burial and elimination of toxic waste, including radioactive waste;
- Mineral tenure related activities (prospecting, exploration, or mining of mineral resources, including extraction and use of underground water, geological mapping and regional geological, geophysical and other scientific researches, building and operation of non-mining underground facilities, collection of mineralogical, paleontological materials for commercial purposes, collection of rock materials for decorative purposes and for their use as ornamental stones and building materials, and non-exploration and non-mining mineral tenure);
- Generation, use, processing, formation, storage, and elimination of substances which can form explosive mixtures (flammable oxidizing gases and filling stations which fill compressed or liquefied gas cylinders);
- Generation, formation, storage, use and elimination of hazardous chemical substances.

### **List of operating permits**

Permits are required for the following operations:

- Import of used automobile tires as waste for recycling purposes;
- Blasting operations;
- Mining operations;
- Import and export of ore and rock samples, concentrates, residues and laboratory tests for analytical research;
- Purchase of alluvial gold and gold concentrate;
- Import of commodities of plant origin under quarantine;
- Export of cultural valuables;
- Work permit issued to foreign citizens and stateless persons at employers' request based on overall quota in the territory of the Kyrgyz Republic;
- Employment of Kyrgyz citizens abroad;
- Transit of weapons and military equipment through the territory of the Kyrgyz Republic;
- Import, export, transit through the territory of the Kyrgyz Republic of narcotic drugs, psychotropic substances and their precursors;
- Purchase, storage, transportation, carrying, collection, display, import, export of civilian and duty weapons and munitions;
- Purchase, storage and sale of highly toxic substances;
- Purchase, sale, storage, transportation, carrying, import, export of special means approved by the Government of the Kyrgyz Republic;
- Test fishing for scientific purposes;
- Export of species of flora and fauna not covered by CITES;
- Import or export of species of flora and fauna, their parts or derivatives, covered by CITES;
- Placement of waste in the environment;
- Discharge of pollutants into the environment;
- Release of pollutants into the atmosphere by stationary sources of pollution;
- Entry and exit from foreign country during international cargo transportation by truck;
- Transit through the territory of a foreign state during international cargo transportation by truck;
- International cargo transportation by truck;
- Cargo transportation to or from third countries during international cargo transportation by truck;
- International passenger transportation (regular and irregular);
- Transportation of dangerous goods;

- Storage of explosives substances and products (including pyrotechnic ones);
- Import of explosive substances and products to the Kyrgyz Republic (including pyrotechnic ones);
- Purchase of explosives materials;
- Import to the Kyrgyz Republic of radio-electronic means (REM) and high-frequency devices (HFD), other technical means emitting radiofrequency radiation or high-frequency electromagnetic waves;
- Frequency acquisition for operation of radio-electronic means;
- Import and export of goods (products) subject to veterinary control;
- Transit through the territory of the Kyrgyz Republic of goods (products) subject to veterinary control;
- Transit through the territory of the Kyrgyz Republic of goods included in the National Checklist of controlled products of the Kyrgyz Republic approved by the Government of the Kyrgyz Republic;
- Import and export, development, production, sale, purchase, storage, transportation of special technical means used for surreptitious obtaining of information;
- Import and export of cryptographic hardware (including cryptographic equipment, parts for encryption equipment and software packages for encryption), normative and technical documentation of cryptographic hardware (including construction and operational ones).

### **Licensing Authorities**

Licenses are issued by the competent governmental authorities (licensors) exercising control over licensed activities. The list of the governmental authorities issuing licenses is set forth in the laws and acts of the Government of the Kyrgyz Republic.

Licenses issued in other countries are recognized valid in the Kyrgyz Republic as long as appropriate international treaties are in place.

### **License Issuance**

To obtain a license, an applicant shall submit to the competent governmental authority the following documents:

- The standard application form;
- A copy of proof of identity document (for individuals);
- A copy of proof of payment of the application fee and the license and (or) permit fee;
- A copy of certificate of state registration of a legal entity or individual entrepreneur;
- Copies of documents set forth in the Regulation on Licensing of Certain Business Activities approved by the Government of the Kyrgyz Republic.

A licensor may not demand from the applicant any documents other than those provided by law or regulations. All documents submitted for the purposes of obtaining a license shall be duly registered by the competent authority. Applicants may apply for licenses and (or) permits online through licensors' websites by completing and submitting their application forms and scanned copies of original registration documents. In return, they receive the licensor's confirmation indicating the date of receipt of the application and the list of the documents submitted online. Applicants may apply for an electronic license and (or) permit by indicating this in the application form.

Licenses are issued within thirty calendar days from the date of filing an application with all the required documents. The only exception is the license to use radio-frequency spectrum requiring coordination with neighboring countries of the Kyrgyz Republic.

## 6. TAXES AND CHARGES

Taxation in the Kyrgyz Republic is regulated by the Tax Code of the Kyrgyz Republic and other regulatory legal acts. The competent authority exercising control over compliance with tax laws and full and timely payment of taxes is the State Tax Service under the Government of the Kyrgyz Republic.

Among mandatory charges are social security contributions to the Social Fund of the Kyrgyz Republic regulated by the Law “On State Social Security”, the Law “On Tariffs of Social Security Contributions for State Social Security”, and other acts.

For more information on social security contributions, fees and other mandatory charges please refer to points 6.9, 6.10 of this section.

### Types of Taxes

The current Tax Code was enacted in October 2008 and took effect on the 1<sup>st</sup> of January, 2009.

According to it, nowadays, the following taxes are paid in the Kyrgyz Republic under the general tax regime.

#### National taxes such as:

- Profit tax
- Income tax
- Value added tax
- Excise tax
- Mining taxes (Bonuses and Royalties)
- Sales tax

#### Local taxes such as:

- Land tax
- Property tax

For taxation purposes, legal entities are divided into domestic and foreign entities. Domestic entities are legal entities organized under the laws of the Kyrgyz Republic, and foreign entities are corporations, companies, firms, foundations, institutions or other formations organized under the laws of a foreign state, or international organizations. Foreign entities, in their turn, are divided into foreign entities operating through a permanent establishment in the Kyrgyz Republic, and foreign entities not operating through a permanent establishment in the Kyrgyz Republic.

### Foreign entities operating through a permanent establishment in the Kyrgyz Republic

**A foreign entity** operating through a permanent establishment in the Kyrgyz Republic becomes a taxpayer along with domestic entities.

**Permanent establishment** is a permanent place of business through which a foreign entity operates fully or partially and covers:

- Management headquarters;

- Division;
- Office;
- Factory;
- Workshop;
- Mine, oil or gas well, quarry or any other mineral mining sites;
- Land plot;
- Construction site, or building or assemblage facility, or relevant works supervision services (if such site or facility exists for 183 or more calendar days, or if such services are provided for 183 or more calendar days within any 12-month period);
- Installation or structure used in the exploration of mineral resources, or supervision services, or drilling installation or ship used to explore mineral resources (if such use lasts for 183 or more calendar days or if such services are provided for 183 or more calendar days within any 12-month period);
- Rendering of services including consulting services rendered by a non-resident through personnel hired by this non-resident (if such personnel conduct such activities in the territory of the Kyrgyz Republic during 183 or more calendar days within any 12-month period).

### **Foreign entities not operating through a permanent establishment in the Kyrgyz Republic**

If a foreign entity is not operating through a permanent establishment in the Kyrgyz Republic, but it derives income from the sources located within the Kyrgyz Republic, for taxation purposes, it is treated as a foreign entity not operating through a permanent establishment in the Kyrgyz Republic. In this case, an individual entrepreneur or legal entity paying income to such foreign entity must assess, withhold, and transfer to the budget the amount of tax on income received from a source in the Kyrgyz Republic by a foreign entity not operating through a permanent establishment in the Kyrgyz Republic, without deductions at the following rates:

- For insurance payments under insurance agreements or risk re-insurance agreements (except mandatory insurance agreements), income from international telecommunication or international transportation services between the Kyrgyz Republic and other countries, the rate is 5%;
- For dividends and interest income (except interest income from securities listed on the Kyrgyz stock exchange in the highest and second highest listing categories), insurance payments under agreements of compulsory insurance or reinsurance against risks, author's honoraria, royalties, income from services and works, the rate is 10%;
- Until January 1, 2017, (a) for dividends and interest income from works and/or services received from the leasing company, the rate is 1% and (b) for author's honoraria or royalties received from the leasing company, the rate is 0%.

## **6.1 Profit Tax**

**Payers** of profit tax include domestic entities, foreign entities operating through a permanent establishment in the Kyrgyz Republic, sole proprietors, entrepreneurs and legal entities paying income from a source in the Kyrgyz Republic to foreign entities not operating through a permanent establishment in the Kyrgyz Republic.

**Object of taxation** is the income received from business activities by:

- A domestic entity or sole proprietor from a source within or outside the Kyrgyz Republic;
- A foreign entity or non-resident individual operating through a permanent establishment in the Kyrgyz Republic from a source in the Kyrgyz Republic.

**Tax base** is the profit calculated as a positive difference between a taxpayer's gross annual income and expenses deductible under tax law as assessed for the tax period. At that, small and medium enterprises may calculate their taxable profit under the simplified procedure.<sup>63</sup>

**Gross annual income** includes all types of income identified in accordance with the accounting rules set forth in Kyrgyz law, as well as:

- Proceeds from sale of goods, works, or services, except proceeds from sale of fixed assets included in tax group for tax depreciation purposes;
- Gain from sale of non-depreciable assets, including gain from sale of materials or other property remained after the dismantling or liquidation of non-operating fixed assets;
- Gain from the consent to limit or stop business activities;
- Value of gratuitously received assets;
- Excess of a positive foreign exchange rate over a negative foreign exchange rate;
- Interest income;
- Dividends;
- Royalty;
- Income from remunerations and compensations paid as the company management fee;
- Income from lease of movable or immovable property;
- Income from appreciation of value upon sale of movable or immovable property not used in business activities, except a sole proprietors property included in standard income tax declaration;
- Income from sale of: (a) shares of stock, less the cost of acquisition; (b) derivative securities; (c) debt securities without coupon less the cost of acquisition subject to discount depreciation and/or bonus as of the date of sale; (d) other property law objects treated as securities in accordance with Kyrgyz law, less the cost of acquisition; (e) participation interest minus its initial value;
- Subsidies;
- Negative values of tax assessment for a group of depreciated assets as of the end of the tax period;
- Value of excessive assets revealed as a result of inventory taking;
- Income from termination of a taxpayer's obligations arising as a result of: (a) writing off of obligations by the creditor except for debt relief effected by a separate law; (b) discharge of an obligation by a taxpayer, including discharge of a tax obligation by a third party;
- Income from assignment of a claim of debt;
- Insurance proceeds (compensations) under insurance agreements except compensation of insurance proceeds under fixed assets insurance agreements;
- Doubtful obligations;
- An excess of income over expenses arising in connection with the operation of social infrastructure facilities.

Gross annual income does not include **non-taxable income** including:

- Value of property received as a share input and/or contribution to the charter capital;
- Value of facilities (to be used for social, cultural, housing, communal or household purposes, roads, electric networks, substations, boiler rooms, heating networks, water intakes facilities, mining equipment, civil defence facilities) gratuitously transferred to specialized organizations engaged in use and operation of the said facilities for their intended purpose, value of fixed assets gratuitously transferred to enterprises, institutions and organizations and money used as capital investments to develop their own production base by the decision of the Kyrgyz Government or local authorities;

<sup>63</sup> Small and medium enterprises mean payers of profit tax, except entities providing financial, insurance, investment fund or professional securities market services, and payers of excise tax whose proceeds from sale of goods, works or services, net of VAT and sales tax, do not exceed 30 million soms per calendar year.

- Received by non-profit organizations:
  - a) membership and entrance fees;
  - b) humanitarian aid and grants, provided that they are used only for the purposes stated in the charter;
  - c) value of gratuitously received assets provided that they are used only for the purposes stated in the charter;
  - d) fee for technical maintenance of multi-apartment houses and servicing buildings and structures;
  - e) fee for irrigation water supplied by water user associations to their members in the framework of the activity stated in the charter;
- Dividends received by taxpayers on income from participation in local companies;
- Value of property received by general partnership as contributions of partners;
- Value of property in trust management;
- Gain in the value of treasury shares (excess over par value);
- Gain in the value of sold treasury shares;
- Interest and gain in the value of securities listed on the stock exchanges in the highest and second highest listing categories on the date of sale;
- Income from sale of fixed assets under a finance lease (leasing) agreement until January 1, 2017.

**Expenses fully or partially deductible from the gross annual income include:**

- Expenses incurred in connection with interest paid on credits and loans;
- Expenses incurred in the process of scientific research, construction, research and design works;
- Fixed asset depreciation amounts;
- Expenses incurred in connection with the repair of fixed assets (in a certain amount);
- State social security deductions ;
- Losses incurred in connection with the sale of securities;
- Provision for probable loan losses and bank contributions to Deposit Protection Fund;
- Charity expenses (in a certain amount);
- Personnel training and re-training expenses;
- Business trip expenses;
- Representation expenses;
- Other documented income generation expenses.

Tax legislation sets forth a list of **expenses not deductible from the gross annual income**, including:

- Tax sanctions, penalties and default interests paid to the national budget and to the Social Fund of the Kyrgyz Republic;
- Expenses related to production, acquisition and installation of fixed assets and other capital expenditures;
- Profit tax, value added tax (except VAT not subject to set-off), sales tax (except sales tax paid to suppliers during the purchase of goods, works or services), excise tax (except non-deductible excise tax);
- Expenses related to purchase, operation or maintenance of any property income from which is not taxable according to the Tax Code of the Kyrgyz Republic;
- Any expenses incurred for another person, except those representing payments for the services rendered or dictated by the production necessity as confirmed by a documentary evidence;
- Amount of natural losses above standards established by regulatory legal acts effective in the Kyrgyz Republic;
- Expenses that are not capable of being identified by supporting documents except in cases specified by the Tax Code of the Kyrgyz Republic;

- Amounts of non-income generating expenses;
- Expenses incurred to generate income not subject to profit tax;
- Some other types of expenses.

**The profit tax rate** is 10%.

For taxpayers engaged in extraction and sale of gold ore, concentrate, alloy and refined gold<sup>64</sup> the profit tax rate is 0% and for other taxpayers, the rate is 10%. From January 1, 2017 till January 1, 2022, for leasing companies the profit tax rate will be 5%. Some entities are exempt from profit tax (e.g. leasing companies until January 1, 2017, credit unions, charitable organizations, agricultural producers, etc.).

## 6.2 Income Tax

**Payers** of income tax are Kyrgyz citizens, resident non-Kyrgyz citizens and non-resident non-Kyrgyz citizens receiving income from a source in the Kyrgyz Republic, and individuals or legal entities paying income to individuals from a source in the Kyrgyz Republic.

**Object** of taxation is economic activity, except business activity, resulting in income generated:

- from a source within and/or outside the Kyrgyz Republic – in respect of Kyrgyz citizens and resident non-Kyrgyz citizens;
- from a source within the Kyrgyz Republic – in respect of non-resident non-Kyrgyz citizens.

**Tax base** is income estimated as the difference between the gross annual income, received by a taxpayer over the tax period, and deductions required by Kyrgyz tax legislation, but in any case representing not less than a minimum estimated income for the income tax period annually set by the State Tax Service of the Kyrgyz Republic.

**The income tax rate** is 10%.

## 6.3 Value Added Tax

Value added tax (VAT) is a tax collected and remitted to the government on the value of VAT-taxable supplies in the territory of the Kyrgyz Republic, including taxable import supplies to the Kyrgyz Republic.

**Payers** of VAT are taxable entities and/or entities performing taxable import operations.

Under Kyrgyz tax legislation, an entity is subject to taxation if it has been or must be registered for VAT. A business entity must register for VAT if, during 12 consecutive months or less, it has been making taxable supplies of goods, works or services in the territory of the Kyrgyz Republic for the amount exceeding 4 million KGS (about USD 81.2 thousand as of December 31, 2013 ). The entity which is not required to register for VAT may register for VAT voluntarily.

**The object** of VAT taxation includes:

- Taxable supplies; and
- Taxable import.

<sup>64</sup> Taxpayers engaged in extraction and sale of gold ore, concentrate, alloy or refined gold pay income tax at rates ranging from 1% to 20% depending on the value of gold. Taxable income is the proceeds (net of VAT and sales tax) from sale of gold alloy and refined gold, and the value of gold in ore and concentrate calculated on the basis of world market prices in the manner specified by the Kyrgyz Government.

**Taxable supplies.** Under Kyrgyz tax law, taxable supplies carried out by a taxable entity include the following supplies except non-taxable supplies:

- Supplies of goods in the territory of the Kyrgyz Republic;
- Supplies of works and services in the Kyrgyz Republic for a fee;
- Export of goods from the Kyrgyz Republic.

Taxable supplies are subject to **12%** VAT, except VAT taxable supplies subject to a zero rate or a 20% VAT rate.

**Zero VAT** taxable supplies include the following:

- Export of goods, except export of gold and silver alloy and refined gold and silver;
- International carriage of passengers, luggage and cargos, except carriage by rail;
- Transit flights and related international carriage catering services, except international carriage by rail;
- Services related to the supply of electricity to pump stations supplying irrigation water to the fields and drinking water to the population.

**20% VAT** taxable supplies made by taxable entities from the 1<sup>st</sup> of January, 2009 include supplies of:

- Residues of material resources as of the 1<sup>st</sup> of January, 2009 acquired and produced during the period starting on the date this entity was registered for VAT and ending on the 31<sup>st</sup> of December, 2008;
- Goods brought across the border of the Kyrgyz Republic before the 1<sup>st</sup> of January, 2009.

**Taxable import:** Taxable import means the import of goods into the customs territory of the Kyrgyz Republic, except for import of VAT exempt goods.

Supplies of goods brought across the border of the Kyrgyz Republic before the 1<sup>st</sup> of January, 2009, related to taxable import, are subject to 20% VAT. All other supplies of goods treated as taxable import are subject to **12%** VAT.

Thus, if an entity is registered or is required to register as a VAT payer, such entity must pay tax both on taxable supplies and on taxable import. If an entity is not registered nor is required to register as a VAT payer, such entity must pay VAT on taxable import only.

**Exempt supplies** include **exempt** supplies and supplies **outside the scope of VAT**. Kyrgyz tax legislation sets forth a list of exempt supplies, including:

- Supply of land, except allocation of trading spaces and parking areas;
- Supply of residential buildings and premises, except lease of inns, boarding houses, resort and health centres;
- Supply by an agricultural producer of its own agricultural products;
- Supply by an entity of goods (except excisable goods), berries, fruits and vegetables, industrially processed by this entity;
- Supply of goods, works and services of food and processing enterprises (except excisable goods used in production) processing local agricultural raw products for a term of 6 years according to the list approved by the Kyrgyz Government;
- Supply of public utilities to a physical person for household purposes;

- Supply of own goods, works, or services by correctional institutions and enterprises of the Kyrgyz penal system;
- Supplies of fixed assets under a financial lease agreement;
- Supply of prosthetic and orthopaedic items, supply of specialized goods for handicapped persons including their repair and supply of medicines according to the list determined by the Kyrgyz Government;
- Supply of financial services (charging and collection of interest income, disbursement and collection of debt obligations, issuing sureties and/or guarantees, including bank guarantees, debt management agent services deposit operations, opening and maintaining bank accounts of organizations and individuals including correspondent bank accounts; payment, transfer, debt obligations, cheques and commercial negotiable instruments and encashment operations; opening and maintaining metal accounts of individuals and organizations reflecting a physical amount of refined precious metals belonging to this person; currency, banknote and legal tender operations, except golden coins and collection samples; stocks, bonds and other securities operations, payment cards and excise stamps operations, except custody services; operations involving participating interests in capital of business partnerships and companies; management of investment funds; clearing operations, including collection, verification, sorting and confirmation of payments, and offsetting of debts and determining clear positions of clearing participants such as banks and organizations performing certain banking operations; opening and maintaining letters of credit);
- Supply of property received by banks from their borrowers in repayment of debt to the extent of the amount of the debt;
- Supply of insurance, coinsurance and reinsurance services;
- Supply of pension processing and payment services, and pension funds property management, except lease of property;
- Passenger carriages in the territory of the Kyrgyz Republic, except carriages by car with less than 6 passenger seats;
- International passenger, luggage and cargo carriages by rail;
- Supply of text books, reading books, scientific, artistic literature, magazines, children's literature published in state (Kyrgyz) language;
- Supply of services of processing the goods imported in the customs territory of the Kyrgyz Republic and subject to customs treatment entitled "Processing of goods in the customs territory" and "Processing of goods under customs control";
- Supply of state property through privatization;
- Supplies by charitable organizations for charitable purposes in accordance with Kyrgyz law on sponsorship and charity;
- Supplies related to social security, child and low-income aged people protection, and supplies related to education, medicine, science, culture, and sport and made by a non-commercial organization for a fee not exceeding expenses related to such supplies;
- Gratuitous transfer of socio-cultural, housing and household utilities facilities, roads, power networks, substations, boiling rooms, heating networks, water intake structures, mining equipment, civil defence facilities, to specialized organizations using and operating said facilities for their intended purpose, value of the fixed assets gratuitously transferred to enterprises, institutions and organizations by the decision of the Kyrgyz Government or local self-governance authorities;
- Gratuitous transfer of utility facilities to residential properties or their operators under a delivery-acceptance certificate approved by the state architectural supervision authority;
- Supply by government and municipal authorities of ritual goods and rendering of ritual services to the public related to burial or funeral;
- Supply of mineral fertilizers, chemical plant protection means, animal vaccines and medications according to the list established by the Kyrgyz Government;

- Supply to a local agricultural producer of agricultural machinery manufactured at Kyrgyz enterprises according to the list approved by the Kyrgyz Government;
- Supply and export of golden and silver alloys and refined gold and silver;
- Supplies of goods, works and services by private partners and (or) a project company under the public-private partnership agreement subject to approval by the Kyrgyz Government during the period specified in the public-private partnership agreement;
- Import of securities, standard forms of passports and ID cards of Kyrgyz citizens; import of specialized goods for handicapped persons according to the list approved by the Kyrgyz Government; import of textbooks and school stationery, as well as scientific publications according to the list approved by the Kyrgyz Government; import of goods exempt from VAT within tax treatments defined by Kyrgyz customs legislation (for example: transit, re-export); import of scientific equipment of geological (geophysical, geodesic) expeditions for seismic acquisition; import of excise stamps and currency, except those used in numismatics; import of goods used as aids in rescue efforts following disasters and military conflicts; import of goods supplied as humanitarian aid and grants in the manner specified by the Kyrgyz Government; import of goods to be officially used by diplomatic missions and consular offices of foreign states and international organizations, including their family members, in accordance with international treaties; import of infant food according to the list approved by the Kyrgyz Government; import of natural gas; import of medications; import of pedigree agricultural animals and seed materials, mineral fertilizers and chemical plant protection means, as well as animal vaccines and medications according to the list approved by the Kyrgyz Government; import of specialized goods for construction and reconstruction of glass-making furnace and converter (ferroalloy furnace); import of weapons, military equipment, military property, special equipment, or special means according to the list approved by the Kyrgyz Government by governmental authorities and organizations financed from the national budget for the purposes of ensuring defense capacity, national security and legal order in the Kyrgyz Republic;
- Import of some fixed assets by business entities registered for VAT directly for their own operational purposes;
- Export of works and services.

All other supplies not included in the list of taxable supplies, taxable import or exempt supplies are treated as supplies falling outside the scope of VAT. For example, sale of an enterprise or an independently operating part thereof by one VAT payer to another VAT payer or entity becoming a VAT payer at the moment of transfer; or transfer of goods from a taxpayer to its agent except when goods are transferred by a taxpayer to an agent as the agent's remuneration.

## 6.4 Excise Tax

**Payers** of excise tax are entities manufacturing excisable merchandise, including on a give-and-take basis, within the Kyrgyz Republic, and/or importing excisable merchandise to the Kyrgyz Republic such as:

- Ethyl alcohol;
- Malt beer;
- Alcoholic drinks;
- Mixtures of alcoholic and non-alcoholic drinks;
- Tobacco products and other products containing tobacco;
- Jewellery and other items or their parts made of precious metals or metals plated with precious metals;
- Oil and oil products.

**The objects of taxation** are:

- Manufacture in the Kyrgyz Republic or import to the Kyrgyz Republic of excisable merchandise;

**Tax base** includes:

- Physical volume of excisable merchandise; and/or
- Sale price of excisable merchandise, net of VAT, sales tax and excise tax; and/or
- Customs value of excisable merchandise determined in accordance with the Tax Code of the Kyrgyz Republic; and/or
- Merchandise market price net of VAT, sales tax and excise tax at the time of transfer by a manufacturer of excisable merchandise as an in-kind payment or gift at the time of transfer of title to guaranteed merchandise to the guarantor or at the time of exchange operation on a free-of-charge basis.

**Basic rates of excise tax** are approved by the Tax Code of the Kyrgyz Republic. Excise tax rates can be changed by the Kyrgyz Government to the extent that such rates do not exceed the basic rate of the excise tax. That said, for tobacco products excise tax is charged at complex rates until the 1<sup>st</sup> of January 2016.

## 6.5 Sales Tax

**Payers** of sales tax are domestic entities, foreign entities operating through a permanent establishment in the Kyrgyz Republic and sole proprietors.

**The objects of taxation** are sale of goods, performance of works, rendering of services.

**Tax base** includes the proceeds from sale of goods, works or services, net of VAT and sales tax.

**The sales tax rates** are:

- For the sale of goods, works or services by VAT payers and for the sale of goods, works, or services exempt from VAT:
  - a) 1% for trading activities<sup>65</sup> and industrial processing of agricultural products;
  - b) 2% for other activities, aside from trading and industrial processing of agricultural products;
  - c) 5% for mobile communication activities.
- For the sale of goods, works or services by non-VAT payers if such sale of goods, works or services is not a VAT-exempt supply:
  - a) 2% for trading activities;
  - b) 3% for non-trading activities.

## 6.6 Mining taxes

Mining taxes are:

- Bonuses;
- Royalties.

<sup>65</sup> Trading activities mean the sale of goods purchased for sale.

**Bonuses** are one-time payments for the right to engage in mineral exploration and mining activities .

**Payers** of bonuses are domestic entities or foreign entities operating through a permanent establishment in the Kyrgyz Republic or sole proprietors holding mineral rights

**Tax base** is the amount of geological reserves and inferred resources included in the Kyrgyz state cadaster of mineral deposits and occurrences, as well as the depth of water wells.

Also, a bonus is paid in the event of a change in the shareholders and their shareholdings at the rate of 10% or more in proportion to the change in the shareholding, except shareholdings in companies listed on stock exchanges.

**Rates** of bonuses and procedures for their calculation are established by the Kyrgyz Government for all types of minerals according to the classification table depending on the degree of exploration, significance and scale of mineral deposits and/or occurrences, as well as size of the exploration area and depth of water wells.

In respect of the mineral deposits put out to tender, the bonus rate is determined by the Kyrgyz Government individually for each deposit.

**Royalties** are the current payments for the right to engage in production and/or extraction (recovery) of underground water.

**Payers** of royalties are domestic entities, foreign entities operating through a permanent establishment in the Kyrgyz Republic and sole proprietors engaged in:

- (i) mining of mineral resources;
- (ii) extraction (recovery) of underground water;
- (iii) by-product extraction of oil and gas during test prospecting and exploration of hydrocarbons;
- (iv) occasional extraction of minerals for industrial experiment and testing and/or for disaster prevention and recovery.

**Tax base** includes:

- Proceeds, net of VAT and sales tax, from sale of mineral resources or products resulting from the processing of mineral resources; and/or
- Volume of sold products in specie; and/or
- Volume of water extracted from subsoil according to water gauge – for royalty payers except specialized water supplying entities.

**Rates** of royalties are set forth in the Tax Code of the Kyrgyz Republic as a percentage of proceeds or as the amount in KGS per unit of volume depending on the type of a mined (extracted) mineral and the amount of mineral reserves.

## 6.7 Land tax

**Payers** of land tax are entities treated as land owners or users whose land use rights are certified by standard title documents and actual owners and/or users of land plots.

**The objects** of taxation are the ownership right and the temporary possession and use right to the agricultural lands and areas subject to land tax.

**Tax base** is the area of the land plot.

**Basic rates** of land tax are set forth in the Tax Code of the Kyrgyz Republic depending on the location and purposes of the land plots.

Land tax is calculated according to the formula set forth in the Tax Code of the Kyrgyz Republic for each of:

- agricultural areas;
- settlement lands and non-agricultural lands ;
- orchard and garden areas, by multiplying the area of the land plot by the basic rate of the land plot and applicable coefficients.

## 6.8 Property tax

**Payers** of property tax are entities and individuals that own taxable property such as:

- Residential property (residential houses, apartments, summer houses) meant for permanent or temporary residence and not used for business purposes (group 1);
- Residential property (residential houses, apartments, summer houses), boarding houses, holiday hotels, health resorts, resorts, production, administrative, industrial and other buildings and structures meant or used for business purposes (group 2);
- Temporary structures made from metal or other materials and used for business purposes, such as kiosks, sheds, and other similar property (group 3);
- Transport vehicles, including self-propelled machinery (group 4).

**The objects** of taxation are the ownership and use rights to the taxable property.

**Tax base** includes:

- With respect to the property falling under groups 1, 2 and 3, taxable value of the property determined in the manner specified in the Kyrgyz Tax Code;
- With respect to the property falling under group 4:
  - a) engine capacity or book value for internal-combustion engine vehicles or those without such engine;
  - b) value determined in the manner established by the Kyrgyz Government for transport vehicles without internal-combustion engine and book value.

The property **tax rates** are:

- For property in group 1, the rate is **0.35%**;
- For property in groups 2 and 3, the rate is **0.8%**; and
- For property in group 4:
  - a) for internal-combustion engine vehicles or those without such engine, a fixed amount set forth in the Kyrgyz Tax Code per 1cm<sup>3</sup> of the engine capacity of the taxable transport vehicle depending on its type and period of operation, or **0.5% of its book value**;
  - b) for transport vehicles without internal-combustion engine and book value, **0.5% of the value determined in the manner established by the Kyrgyz Government**.

## 6.9 Deductions to the Social Fund of the Kyrgyz Republic

**Payers** of state social security contributions are:

- Legal entities, regardless of their legal structure or type of ownership, and their standalone subdivisions (branches and representative offices);
- Peasant (husbandry) farms;
- Individuals.

**Rates** of deductions to the Social Fund of the Kyrgyz Republic are as follows:

**With respect to employers:**

- Legal entities, standalone division employers - monthly at the rate of up to 17.25% of all payments to hired workers retained to perform permanent or temporary work regardless of the type of ownership of the employer or type of registration with tax authorities of the Kyrgyz Republic

**With respect to employees:**

- For employers that are legal entities or standalone divisions, the rate is up to 17.25% of all payments to employees hired under a permanent or temporary employment contract regardless of the type of ownership of the employer or type of registration with the Kyrgyz tax authorities;
- For employers and customers of works/services operating under international agreements, the rate is 17.25% of all types of salary or fee for works/services payable to hired employees or individual providers of works/services who are resident Kyrgyz citizens or foreign citizens or stateless persons, unless otherwise specified in relevant international agreements;
- For individuals and providers of works/services who are resident Kyrgyz citizens or foreign citizens or stateless persons and who provide services/works to organizations created under international agreements and/or implementing international projects and for employees, the rate is up to 10% of all types of payments due thereto;
- For peasant (husbandry) farms operating as sole proprietors, the rate is the base rate of the land tax;
- For individual entrepreneurs subject to the simplified tax regime or tax contract, the rate is 9.25% of the average monthly salary;
- For individual entrepreneurs subject to special tax regime based on patent (except lessors of movable and immovable property) and individual entrepreneurs and their employees engaged in textile and sewing industries, the rate is the value of the insurance policy;
- For individual entrepreneurs and other individuals receiving income from lease of movable and immovable property, the rate is 9.25% of income received less the cost of maintenance of such property, but not less than of the amount of the average monthly salary;
- For sole proprietors operating under licenses and receiving honoraria (remuneration), the rate is 9.25% of the honorarium (remuneration) received.

## 6.10 Mandatory fees and other charges

Additionally, Kyrgyz law imposes certain mandatory fees and other charges on business entities depending on their status and type of activity, such as customs duties (refer to section 15), license fees, waste disposal fees, local infrastructure development and maintenance fees, etc.

### 6.11 Special Tax Regimes

In addition to general tax regime, Kyrgyz law establishes special tax regimes for specified categories of taxpayers. These regimes are:

- Simplified single tax-based tax regime;
- Mandatory patent-based tax regime;
- Voluntary patent-based tax regime;
- Tax contract-based tax regime;
- Free economic zone tax regime;
- Special means tax regime;
- High-tech park tax regime.

**Under simplified single tax-based tax regime**, small and medium enterprises may pay single tax instead of profit tax or sales tax on their taxable income.

Single tax is charged at the following rates: for agricultural products processing, production and trade, the rate is 4% of earnings, and for other activities, the rate is 6% of earnings. Where the taxpayer is engaged in several undertakings, single tax is assessed and paid separately for each undertaking at the rates established for these undertakings.

Simplified tax regime is optional for all business entities, except payers of VAT, excise tax, or patent-based tax, providers of financial and insurance services, investment funds, professional securities market participants and providers of catering services.

**Mandatory patent-based tax regime** applies instead of income tax, VAT on taxable supplies and sales tax only to the providers of the following services: saunas and baths, except municipal ones, billiards, currency exchange offices, discotheques, all day parking, pawnshops, hair and beauty salons, private dentistry, billboard advertising, bookmaker or betting.

Mandatory patent-based tax rates are set forth in the Kyrgyz Tax Code.

**Voluntary patent-based tax regime** applies instead of profit tax and sales tax only to individuals who are not VAT payers and only in respect of activities determined by the Kyrgyz Government. The base rates of voluntary patent-based tax are also determined by the Kyrgyz Government.

**Tax contract-based tax regime** applies to organizations and individual entrepreneurs engaged in business. Under this tax regime, a taxpayer and a competent tax authority execute a contract setting forth fixed amounts of profit tax, sales tax and VAT expected to be paid by the taxpayer in the next calendar year.

Tax contract-based tax regime does not apply to payers of mandatory patent-based tax, providers of lending, financial, and insurance services, investment and pension funds, professional securities market participants, delinquent tax debtors, payers of mining tax, payers of excise tax, entities engaged in business for less than 3 years, except providers of catering services, providers of catering services operating less than 3 months.

**Free economic zones tax regime** applies only to residents of free economic zones of the Kyrgyz Republic engaged in the production and sale of goods (works, services) except excisable goods, in free economic zones. Residents of free economic zones may be only organizations registered with the General Directorate of free economic zones. Residents of free economic zones are exempt from all

taxes except income tax and other taxes withheld and paid at source in respect of activities carried out by them in free economic zones. For the above tax benefits residents of free economic zones pay a fee of up to 2% of earnings to the General Directorate of free economic zones. With respect to activities carried out in the rest of the Kyrgyz Republic and abroad, residents of free economic zones are subject to general tax regime.

**High-tech park tax regime** applies only to residents of high-tech parks engaged in business or international trade, provided that they comply with the requirements set forth in Kyrgyz law on high-tech park. Residents of high-tech parks are exempt from profit tax, VAT and sales tax for the period determined in accordance with Kyrgyz law on high-tech park, while employees of residents of high-tech park pay income tax at a reduced rate of 5%.

## 6.12 Double Taxation Treaties

To avoid double taxation and prevent income tax and capital tax dodging, the Kyrgyz Republic has signed a number of bilateral treaties with a number of countries such as<sup>66</sup>:

- The Republic of Kazakhstan;
- The Republic of Belarus;
- The Republic of Ukraine;
- The Republic of Tajikistan;
- The Republic of Uzbekistan;
- The Russian Federation;
- The People's Republic of Mongolia;
- The Republic of India;
- Canada;
- The Republic of Poland;
- Malaysia;
- The Republic of Turkey;
- The Swiss Confederation;
- The Islamic Republic of Iran;
- The People's Republic of China;
- The Republic of Austria;
- The Republic of Finland;
- The Republic of Moldova;
- The Federal Republic of Germany;
- The Republic of Lithuania;
- The Republic of Latvia;
- The Republic of Korea.

The Government of the Kyrgyz Republic has signed the agreement with the Republic of Lithuania (not ratified) and approved drafts of similar treaties with the Republic of Georgia, the Republic of Armenia, the Kingdom of Netherlands, and the Czech Republic. For the time being, the drafts of the treaties received from the Republic of Azerbaijan and the Republic of France are under review, the negotiations with the Grand Duchy of Luxembourg and the Republic of Korea are underway, and the negotiations with the Kingdom of Spain and the Republic of South Africa are planned.

<sup>66</sup> Information taken from the website of the State Tax Service of the Kyrgyz Republic as of December 31, 2013:  
<http://www.sti.gov.kg/information-for-taxpayers>

## 7. ACCOUNTING AND AUDIT

### Financial Reporting

In the Kyrgyz Republic, International Financial Reporting Standards developed by the International Accounting Standards Board (London) are applied as uniform basis rules for accounting and financial reporting. Small business enterprises may use simplified accounting and financial reporting rules established by the Kyrgyz Government.

Financial institutions operating in accordance with the principles of Islamic banking and finance use Islamic financial accounting standards adopted in accordance with Kyrgyz law.

### Audit

In the Kyrgyz Republic, International Standards of Audit issued by International Federation of Accountants through the International Auditing and Assurance Standards Board (New York City USA) are applied as auditing standards. Islamic financial institutions use the auditing standards for Islamic financial institutions developed by the Accounting and Auditing Organization for Islamic Financial Institutions, established and based in Manama, Bahrain.

Under Kyrgyz law, external audit is mandatory for banks and other organizations licensed by the National Bank of the Kyrgyz Republic, insurance organizations, public companies making initial public offerings of securities, investment funds, private pension funds, and such other persons as may be specifically set forth in Kyrgyz law. For other persons, audit is optional.

As of March 1, 2013, there are 73 licensed audit firms operating in Kyrgyzstan.<sup>67</sup>

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<sup>67</sup> Information is taken from the website of the State Service for regulation and supervision of financial market of the Kyrgyz Republic:  
[http://www.fsa.kg/?page\\_id=1960](http://www.fsa.kg/?page_id=1960)

## 8. CURRENCY EXCHANGE CONTROL

### Transactions in Foreign Currency

The legislation of the Kyrgyz Republic<sup>68</sup> provides that a financial liability must be expressed and settled in the national currency. The use of foreign currency and payment documents in foreign currency for settling financial obligations within the territory of the Kyrgyz Republic is allowed in cases and subject to procedures established by legislation. According to the Law of the Kyrgyz Republic “On public and private debt”, Kyrgyz residents may take loans and credits in any currency.

On the 8<sup>th</sup> of May 1992, the Kyrgyz Republic joined the International Monetary Fund (IMF), and in March 1995 assumed obligations under Clause VIII of the IMF Agreement, under which the Kyrgyz Republic has to refrain from imposing restrictions upon currency rate in payments and transfers on current international transactions, as well as from discriminating currency regimes or multiple currency rate practices without the consent of the IMF.

Therefore, currency exchange control is virtually absent in the Kyrgyz Republic, as there are no restrictions upon:

- Transfer of foreign currency across borders;
- Currency import and export (on condition of its declaring at customs points);
- National and foreign currency exchange transactions;
- Purchase and sale of foreign currency by residents and non-residents at duly licensed banks and exchange offices;
- One-time cash transactions of exchanging national and foreign currency;
- Current payments, operating revenues and cross-border transfer of capital.

Under Kyrgyz legislation<sup>69</sup>, the transfer of currency, valuables other than currency, and the recording of necessary data in the customs declaration (lists), are performed in accordance with Kyrgyz customs legislation.

When receiving credits or loans, opening accounts or deposits outside the Kyrgyz Republic, Kyrgyz residents must register them with the National Bank of the Kyrgyz Republic and upon its request provide information on the respective accounts or deposits and other information related to transactions in foreign currency.

68 Article 307 of the Civil Code of the Kyrgyz Republic dated May 8, 1996 (with the latest amendments as of 3<sup>rd</sup> August, 2013).

69 The Law of the Kyrgyz Republic “On Foreign Currency Transactions” dated July 5, 1995 (with the latest amendments as of 26<sup>th</sup> April, 2013).

## 9. BANKING SYSTEM

### State Regulation

The banking system of the Kyrgyz Republic consists of the National Bank of the Kyrgyz Republic and commercial banks. Banking activities are regulated by the Law of the Kyrgyz Republic “On the National Bank” and the Law of the Kyrgyz Republic “On Banks and Banking”.

The National Bank is a central bank of the Kyrgyz Republic owned by the Kyrgyz Republic. Powers and functions of the National Bank include:

- Determination and implementation of the monetary policy in the Kyrgyz Republic;
- Issuance of licenses for all types of banking operations;
- Exercise of currency regulation, including issuance of guidelines for foreign currency transactions, as well as purchase, sale and exchange of foreign currency in accordance with Kyrgyz law;
- Exercise of other functions and powers in accordance with Kyrgyz law.

### Establishment and Licensing

A bank can be established and operate only as a joint-stock company (whether closed or open) and the amount of its charter capital must be not less than KGS 600 million (or approximately USD 12,765,957) for newly established banks, and KGS 100 million (or approximately USD 2,127,659) for operating banks.

Banking operations subject to licensing include: deposit-taking operations; investing own or borrowed funds; opening and maintaining accounts of individuals and legal entities; independently establishing correspondent relations; carrying out settlements upon the request of customers and correspondent banks; providing cash services to them; issuing, cashing, accepting, keeping, and confirming payment instruments (cheques, letters of credit, promissory notes, and other instruments), including credit and debit cards; purchasing and selling debt (factoring); promissory note and bill of exchange forfeiting; issuing debt securities (deposit certificates, bonds, promissory notes); performing financial leasing transactions; issuing bank guarantees; providing paid services using electronic money in the form of prepaid cards.

The right to issue respective licenses rests with the National Bank of the Kyrgyz Republic.

Foreign banks can set up their representative offices, subsidiaries and joint ventures in the Kyrgyz Republic with the consent of the National Bank of the Kyrgyz Republic. Branches of foreign banks must obtain the license from the National Bank of the Kyrgyz Republic.

### Standard Requirements for Banks

The National Bank establishes standard requirements including minimum capital and reserve funds requirements. The National Bank also establishes mandatory requirements with respect to commercial bank officers (chair and members of the Board of Directors, chair and deputy chairs and members of the Management Committee, chair of the Audit Committee, head of the Crediting Department, chief accountant and internal auditor) who are appointed with the consent of the National Bank.

All the requirements for domestic banks, including minimum authorized capital and minimum reserve funds and other requirements, also apply to banks with foreign ownership.

## Liquidation and Re-Organization

A bank may be liquidated or re-organized as a result of revocation of its banking license by the National Bank, by a respective court decision, or by a voluntary decision of the bank.

## Bank Secrecy

Disclosure of information representing a bank secret is regulated by the Law of the Kyrgyz Republic “On Bank Secrecy” and the Law of the Kyrgyz Republic “On Banks and Banking”.

The following information is considered to be a bank secret: information on customers’ accounts and deposits; information on transactions/operations performed upon customer’s request or to the customer’s benefit; information about a customer which the bank may have obtained in the course of its relations with the customer.

In addition to the National Bank, banks may provide information to: investigation agencies (with authorization of procurator); courts (on the basis of a court ruling); and representatives of an individual (on the basis of a notarized power of attorney).

Many commercial banks operating in the Kyrgyz Republic, including other financial institutions provide credit information to Ishenim Credit Information Bureau of the Association of Financial Institutions for the creation and maintenance of the credit registry.

## Anti-Money Laundering and Counter-Terrorism Financing Measures

Under Kyrgyz law, capital control is imposed on cash transactions over 1 million KGS (or over USD 20,000 as of January 2013) referring to any of the following:

- Internal or external transactions and operations performed by banks and other financial institutions;
- Transactions or operations in which at least one party is registered, domiciled or located in off-shore jurisdiction;
- Other transactions and operations such as:
  - The purchase or sale of foreign currency in cash;
  - The purchase of securities by an individual for cash;
  - The exchange of banknotes of different denomination;
  - The contribution by an individual of cash to the authorized capital of an organization;
  - The flow of funds of charities, public organizations and institutions, and foundations;
- Other movable and immovable property transactions:
  - The pawning of securities, precious metals, jewels, or other valuables;
  - The payment of insurance contributions by an individual or receipt of a premium of life insurance, another type of contribution-based insurance, and pension benefits;
  - The transactions involving immovable property in the amount equal to or exceeding 4.5 million KGS;
  - Movable property transactions;
  - Receiving or giving property under a financial lease agreement;
  - The payment of lottery, pari-mutuel, or other gamble-related gains.
- Money transfers:
  - Performed by organizations other than financial and lending institutions, upon request of a customer;
  - Performed through systems not requiring account opening for transfer or receipt of money.

Kyrgyz legislation sets forth mandatory control over transactions and operations, if at least one of their parties is known to have participated in terrorist activities (terrorism financing), as well as of transactions and operations that raise suspicion, i.e., have no clear economic or evident legal purpose and are not typical of a given individual or legal entity.

### **Disclosure of Information**

Entities required to disclose information on the above transactions include banks, financial institutions, currency exchange offices, pawn shops, securities market professionals, commodity exchanges, insurance companies, leasing companies, gambling establishments, entities organizing lotteries, entities registering title to movable and/or immovable property, traffic inspectorate, organizations handling accounts, realtors, and traders in precious metals and jewels.

All information on transactions and operations that raise suspicion shall be provided by the respective entities within 1 business day following the transaction/operation to the financial intelligence service which, in its turn, may share this information with investigation agencies and courts. Legislation precludes liability of the entities for disclosing such information while providing their services to customers. Moreover, the entities are prohibited from disclosing the fact that information was provided to the Financial Intelligence Service of the Kyrgyz Republic.

### **Deposit Insurance**

Under the Law of the Kyrgyz Republic “On Bank Depositor Protection”, there has been established a Deposit Insurance Fund which is administered by the Deposit Insurance Agency. When an insurance contingency occurs, each depositor shall be paid a compensation of not more than KGS 100 thousand (about USD 2,000 as of January 2013 ) in total, including interests on deposits.

An insurance contingency means a bank’s failure to repay a deposit due to its liquidation or bankruptcy. The Law also provides for a category of deposits not subject to protection, for example, deposits of bank insiders and affiliates, deposits made under the power of attorney issued by a legal entity, deposits associated with the financing of terrorism and proceeds of crime (money-laundering), etc.

### **Banking Services**

In the Kyrgyz Republic, pursuant to the data of the National Bank as of November 30, 2013 there are 22 registered commercial banks, including banks with foreign or government participation, and one foreign bank branch. Also, there are three foreign bank representative offices.

As of June 30, 2013, the overall net profit of the banking sector totalled KGS 1,130.2 million.

As of June 30, 2013, the deposit base of the banking sector totalled KGS 53.0 billion, representing a 10.2% increase since the beginning of the year, of which:

- Wholesale deposits totalled KGS 22.8 billion, representing a 12.6% increase since the beginning of the year;
- Retail deposits totalled KGS 24.3 billion, representing a 16.9% increase since the beginning of the year;
- Government deposits totalled KGS 3.2 billion, representing a 33.7% decrease since the beginning of the year;
- Non-resident deposits totalled KGS 2.6 billion, representing a 19.9% increase since the beginning of the year.

The loan portfolio of existing commercial banks totalled KGS 46.9 billion, representing a 17.08% increase over the period from January through June 2013.

Fees for settlement and cashing operations (opening accounts, disbursement of funds from accounts, non-cash wire transfers, cash transfers without opening accounts) are set by each bank independently.

The Non-cash payments sector actively develops. Thus, gross non-cash payments have grown by 31%, while clearing payments have grown by 14%.

Banks in Kyrgyzstan operate with credit cards such as MasterCard, Diners Club, Visa, traveller's cheques American Express, Thomas Cook, CitiCorp, (CUP) ChinaUnion Pay<sup>70</sup> and with registered cheques.

Banks take demand deposits and time deposits (for a term of 0 to 12 months) from legal entities and individuals with an interest rate ranging between 0% and 16%.

Banks issue credits on the following conditions: maturity may vary from 5 to 10 years, with an annual interest rate – from 12% to 38% both in the national currency and in foreign currency.

According to the World Bank's Report, 'Doing Business', 2013, the Kyrgyz Republic ranks 12th out of 189 countries in the world in terms of the legal rights of borrowers and lenders, and the availability and legal framework of credit registries.<sup>71</sup>

### **Principles of Islamic Finance in Kyrgyzstan**

One of the maxims of Islam is "the prohibition to participate in any interest-bearing transactions". Therefore, banks that follow the Islamic principles issue interest-free loans for business development. Under this scheme, a bank obtains a share in the financed or newly established company and participates both in gains and losses of the financed business project.

In May 2006, the Kyrgyz Republic, the Islamic Development Bank, and EcoIslamicBank Closed Joint Stock Company signed a Memorandum of Understanding related to the introduction of the principles of Islamic banking and finance in the Kyrgyz Republic. Parties to the Memorandum agreed to a phased introduction of the Islamic principles in the Kyrgyz Republic as an alternative to the existing traditional principles of finance.

To promote the implementation of the second phase of the pilot project set forth in the above Memorandum, Eco Islamic Bank Closed Joint Stock Company continues its efforts to finalize its transformation into an Islamic bank.

The bill proposing amendments to the Laws of the Kyrgyz Republic "On the National Bank of the Kyrgyz Republic" and "On Banks and Banking in the Kyrgyz Republic" came into effect on July 2, 2009 with an aim to ensure equal conditions for all participants of the banking sector and to promote the Islamic banking in the Kyrgyz Republic.

MFC Companion Financial Group CJSC began practicing Islamic finance in Osh, Kyrgyz Republic in 2013.

### **Operations in Offshore Zones**

Under Kyrgyz legislation, Kyrgyz banks are prohibited from establishing direct correspondent relations with banks, their affiliates and envelope banks incorporated in the following offshore zones:

<sup>70</sup> [http://www.knews.kg/pr\\_articles/35723\\_tseremoniya\\_zapuska\\_ekvayringa\\_kart\\_Union\\_Pay\\_Int\\_/](http://www.knews.kg/pr_articles/35723_tseremoniya_zapuska_ekvayringa_kart_Union_Pay_Int_/)

<sup>71</sup> <http://www.doingbusiness.org/rankings>

- Anguilla (United Kingdom);
- Antigua and Barbuda;
- Aruba;
- Barbados;
- Belize;
- The Bermuda Islands (United Kingdom);
- The British Virgin Islands (United Kingdom);
- Gibraltar (United Kingdom);
- Bahrain;
- Grenada;
- The Dominican Republic;
- Andorra;
- Lichtenstein;
- Lebanon;
- Macao (China);
- the Maldives;
- Monaco;
- Montserrat (United Kingdom);
- Western Samoa;
- The Antilles Islands (Netherlands);
- Niue (New Zealand);
- The Labuan Island (Malaysia)
- The Cayman Islands;
- The Cook Islands (New Zealand);
- The Turks and Caicos Islands (United Kingdom);
- Vanuatu;
- Costa Rica;
- Liberia;
- Mauritius;
- Malta;
- The Marshall Islands;
- Nauru;
- Palau (Belau);
- Panama;
- The Seychelles Islands;
- San Marino;
- Saint Vincent and the Grenadines;
- Saint Lucia;
- The Bahamas Islands;
- Saint Kitts and Nevis;
- Montenegro.

Companies incorporated in the above states and territories may not act as founders or shareholders of resident banks of the Kyrgyz Republic.

### **Development Perspectives**

There are plans to establish a public development bank in the Kyrgyz Republic whose main purpose will be to finance top priority strategic projects and financial institutions promoting economic growth.

## 10. EMPLOYMENT RELATIONS

### Labour Law

The principal legal act regulating employment relations is the Labour Code of the Kyrgyz Republic.

Treaties and other international law instruments ratified by the Kyrgyz Republic constitute an integral part of the current Kyrgyz law and are binding in their entirety and directly applicable in the Kyrgyz Republic. It must be noted that the rules of the treaties ratified by the Kyrgyz Republic which are more favourable to employees shall prevail over the rules set forth in the laws and other regulatory acts of the Kyrgyz Republic, contracts or collective agreements.

### Employment Contract

**An employment contract** is an agreement between an employee and an employer whereby the employer undertakes to provide the employee with the work agreed on, to ensure proper working conditions as required by Kyrgyz law, collective agreement, contracts, internal regulations containing labour law provisions, to timely and fully pay salary to the employee, and the employee undertakes to personally perform his/her job functions in the relevant area of practice or official capacity and to observe the internal working regulations.

An employment contract is executed in writing, in two counterparts signed by both parties. The hire of an employee is completed within three days by the order (instruction or resolution) of the employer based on the employment contract.

An improperly executed employment contract may nevertheless be deemed concluded, if an employee has actually set to work with the consent and on the instruction of the employer or its representative. However, permitting the employee to work does not relieve the employer of the obligation to execute a written employment contract with such employee.

Employment contracts are executed for an indefinite period or definite period (of not more than 5 years for fixed-term employment contracts) or such other period as may be set forth in Kyrgyz law.

The fixed-term employment contract is entered into if employment relations cannot be established for an indefinite period given the nature and conditions of the work to be performed, unless otherwise provided by Kyrgyz law.

Unless the term of the employment contract is specified therein in writing, such contract is deemed executed for an indefinite period. If neither party demands the termination of the fixed-term employment contract due to its expiration, and the employee continues to work after its expiration the employment contract is deemed executed for an indefinite period.

Employers are prohibited from executing fixed-term employment contracts without good cause to avoid offering employee rights and benefits guaranteed under Kyrgyz law.

### Probationary Period

When executing an employment contract, the parties may agree to a probationary period to determine if an employee is suitable for a particular job. The probationary period must be stipulated in the employ-

ment contract and may not exceed three months for general staff and six months for executive staff including senior managers and their deputies, senior accountants and their deputies, chiefs of branches, representative offices and other standalone subdivisions, unless otherwise provided by Kyrgyz law. The probationary period may not be extended even with the employee's consent.

If the employee's performance on probation is not satisfactory, the employer may terminate the employment contract by giving at least 3 days' prior written notice to the employee stating the reasons for considering the employee to have failed to satisfactorily complete the probationary period.

If during the probationary period the employee determines that this job is not suitable for them, the employee may terminate the employment contract by giving 3 days' prior written notice to the employer without stating the reasons for such termination.

If before expiration of the probationary period the employer made no decision to terminate employment, the employee is considered to have satisfactorily completed the probationary period and the employment contract can be subsequently terminated on the general grounds.

The probationary period does not include temporary disability and other periods when an employee is actually absent from work (e.g. blood donors are permitted one day off).

### **Job Transfer**

A transfer to a different permanent position with the same employer at the employer's initiative, i.e. a change in employment functions or material terms of the employment contract, as well as a transfer to a permanent position with another employer or to another location together with the employer is allowed only with the written consent of the employee. The transfer of an employee to a job contraindicated for that employee due to their health condition is prohibited.

### **Termination of Employment Contract**

Kyrgyz law provides a conclusive list of the grounds for terminating an employment contract. The termination of the employment contract is made by a respective order (instruction, resolution) of the employer.

### **Working Time and Rest Time**

Working time is the period of time during which an employee performs their employment duties in accordance with the internal working regulations or work schedule or terms of the employment contract.

The legislation limits the working hours per day, per week, per month.

Working time may vary as follows:

- Normal working hours;
- Short-time working ;
- Part-time working.

Normal working hours may not exceed 40 hours per week, with the exceptions specified in the Kyrgyz Labour Code. Fewer hours per week may be specified in employment contracts by agreement of the parties.

Short-time working means working fewer hours than normal ones. It is limited to the following maximum working hours for the following categories of employees:

- maximum 24 hours per week for employees aged 14 to 16; maximum 36 hours per week for employees aged 16 to 18;
- maximum 36 hours per week for workers engaged in physically demanding labour or exposed to harmful or dangerous working conditions;
- maximum 36 hours per week for employees with disabilities of groups I and II who are paid at the same rate as the employees working normal hours.

Employees may work on a part-time basis by agreement of the parties and are paid in proportion to hours worked. The Kyrgyz Labour Code specifies a conclusive list of persons who are entitled to fewer hours per week or per day at their request.

A five-day working week and two-day weekend or a six-day working week and one-day weekend is determined by the internal working regulations or watch schedules. In case of a six-day working week the maximum working hours per day or watch may not exceed: 7 hours per 40-hour working week, 6 hours per 36-hour working week, and 4 hours per 24-hour working week. The day before a holiday and at night, the working time is 1 hour less.

### **Compensation of Employees**

Compensation of employees refers to wages paid by employers to employees for work done in accordance with laws, other regulatory acts, collective bargaining agreements, arrangements, internal regulations and employment contracts.

Wage is monetary remuneration paid by an employer to an employee in exchange for work done depending on its complexity, quantity, quality, conditions and employee's qualification plus compensations and incentives (for example, premiums). From the legal point of view, the term "wage" is more accurate than the term "compensation of employees" because it refers to the employee's category.

Wage is paid in cash in the national currency of the Kyrgyz Republic (KGS). Employees may not pay compensation of employees with promissory notes, debt instruments, ration cards, or other similar money substitutes.

### **Minimum Amount of Compensation**

A minimum wage (minimum compensation of employees) refers to a guaranteed monthly wage paid to an unskilled employee who completed minimum hours of ordinary work in ordinary working conditions.

A minimum compensation of unskilled employees is established by law and applies throughout the territory of the Kyrgyz Republic and cannot fall below subsistence level of an individual able to work.

In the Kyrgyz Republic, a statutory minimum wage is KGS 840 (approximately USD 17.34 as of April 2013).

A monthly compensation of an employee who has completed minimum hours of work over the given period and performed their employment duties may not fall below the statutory minimum wage.

A minimum wage does not include surcharges and bonuses, premiums and other incentive payouts, as well as payments for working in abnormal or particular climatic conditions or areas exposed to radioactive pollution, nor does it include other compensatory and social welfare payments.

### **Due Date and Procedure for Payment of Wage**

Due dates for payment of wage are established by a collective agreement or internal regulations of an employer. Wage is paid at least once every calendar month.

At the time of payment of wages, employers must notify employees in writing of all amounts comprising the wage and payable to them for the given period of time, the amounts withheld and the grounds for withholding, and the amount receivable.

Wages may be paid to employees at place where they perform work or may be transferred to bank account specified by them as set forth in the collective agreement or employment contract.

Wages are paid to employees directly, except as otherwise provided by law or employment contract, for example, via a proxy.

If a regular payday falls on a weekend or public holiday, wage is paid on the day preceding the weekend or holiday. Vacation pay must be paid at least 3 days prior to such vacation.

In case of employers' failure to pay wages, vacation pays or other amounts payable to employees when due, such amounts will bear interest of 0.15% of the amount outstanding as of the date of actual payment per each calendar day of delay.

In case of employers' failure to pay all amounts payable to discharged employees when due will bear interest of 0.5% of the amount outstanding as of the date of actual payment per each calendar day of delay.

Extra pay for dual employment/multiple jobs or replacement of temporarily absent employees is determined by employers in agreement with employees but may not be below 30% of the gross wage payable for extra job.

Night work must be paid at least time and a half of the workers' normal pay for each hour.

Overtime must be paid at least time and a half of the worker's normal pay for the first two hours and double time thereafter.

Holiday and weekend work must be paid at least double time the worker's normal pay rate.

Idle time which is due to the fault of the employer must be paid at least two-thirds of the worker's normal pay rate. Idle time which is not due to the fault of the employer and employee must be paid at least two-thirds of the worker's normal pay rate (gross wage). Idle time which is due to the fault of the employee must not be paid.

### **Labour Dispute Resolution**

A party of the employment contract (an employer or an employee) which inflicted damages on the other party must reimburse it for such damages as provided by Kyrgyz labour law. The amount of damages may be specified in the employment contract or other agreements executed in writing

and attached thereto. In which case, damages payable by the employer to the employee under the contract may not be less and damages payable by the employee to the employer under the contract may not be more than the amount specified in the Labour Code or other laws of the Kyrgyz Republic. Termination of the employment contract after infliction of damages does not relieve the contracting party of liability.

Individual labour disputes, i.e. unresolved disagreements between the employer and the employee, are referred to labour dispute committees established within the employers, state labour inspection authority and courts of the Kyrgyz Republic.

### **Employer's Liability**

An employer incurs liability for damages caused to its employees by an occupational injury or disease or other health impairment arising out of employment and occurring both on and off site or on the way to or from work in a transport vehicle provided by the employer.

### **Employment of Foreign Nationals**

Foreign nationals employed in the Kyrgyz Republic are subject to the requirements of the Labour Code, other laws and regulations of the Kyrgyz Republic containing the provisions of labour law, unless otherwise provided by Kyrgyz laws or treaties.

Employees of legal entities based in the Kyrgyz Republic and fully or partially founded or owned by foreign companies or nationals (including subsidiaries of transnational corporations) are subject to the requirements of laws and regulations of the Kyrgyz Republic containing the provisions of labour law, unless otherwise provided by Kyrgyz laws or treaties.

### **Rights of Foreign Employees**

Foreign employees have the right to use their ability to work and to choose their trade, occupation or profession freely provided that they have a proper proof of education or experience and other supporting documentation.

### **Work Permit**

Employers may hire and employ foreign nationals on the basis of employment permits while foreign nationals may work or do business in the Kyrgyz Republic on the basis of work permits issued by the Kyrgyz Ministry of Labour, Migration and Youth.

Foreign nationals temporarily staying and wishing to work in the Kyrgyz Republic are issued work permits, provided that their employer places the security deposit in a bank account specially created by the migration authority to cover the cost of transportation of the foreign employee from the Kyrgyz Republic.

The Kyrgyz Government establishes the procedure for placement of security deposits by the employer and refund of security deposits to the employer. The Kyrgyz Ministry of Labour, Migration and Youth is the competent authority for issue of employment and work permits.

There is a fee to apply for employment or work permits collected by the migration authority to cover the cost of issuing such permits. The cost of employment and work permits is determined by the Kyrgyz Government.

The foreign worker quotas are set and approved by the Kyrgyz Government annually 4 months before the beginning of the calendar year with due regard being given to the interests of the state and the local labour market situation. The foreign worker quotas are distributed by the Kyrgyz Ministry of Labour, Migration and Youth among the employers hiring foreign nationals and stateless persons to work in the Kyrgyz Republic with due regard being given to their input in the country's economy and with preference in filling vacancies being given to Kyrgyz nationals.

According to the World Bank's Report, 'Doing Business', 2009; the Kyrgyz Republic ranks 81<sup>st</sup> out of 181 countries in terms of difficulty of hiring and firing employees. In 2008, in this regard, the Kyrgyz Government resolved to develop recommendations and action plan for improving Doing Business's "Hiring and firing workers" indicator. The Government is currently working on making changes and amendments to labour legislation with a view to balance labour relations between the employee and the employer.

## 11. REAL PROPERTY

### Real Property Law

Under Kyrgyz Civil Code,<sup>72</sup> real property refers to land, minerals, water, forests, perennial plantings, buildings, structures and everything firmly attached to land, i.e. objects that cannot be moved without destroying or altering them.

Real property rights and encumbrances, as well as real property transactions are subject to mandatory state registration. The registration procedure is set forth in the Kyrgyz Law “On State Registration of Immovable Property Rights and Transactions”.<sup>73</sup> Under Kyrgyz law, state registration is mandatory for the following rights:

- Right of ownership;
- Right of business management;
- Right of operational control;
- Right of permanent (with no fixed term) use of land;
- Rights arising from mortgage or pledge;
- Right of temporary use, lease or sublease for the term of 3 years or more;
- Easements;
- Restrictions of rights to design, construct and use an individual unit of immovable property, except restrictions imposed on immovable property by the laws and other regulatory acts of the Kyrgyz Republic;
- Rights arising from court decisions;
- Right of use of natural resource listed in Kyrgyz laws;
- Rights arising from legalization of property;

According to the World Bank’s, ‘Report Doing Business’, 2013, the Kyrgyz Republic ranks 6th among 189 countries of the world in terms of the steps, time, and cost involved in registering property in the Kyrgyz Republic<sup>74</sup>.

The following rights and restrictions are valid regardless of their registration or non-registration, but are not secured state protection:

- Right of access to electric power lines, telephone and telegraph lines and poles , pipelines, geodesic points and other rights pertaining to a matter of public concern;
- Rights of spouses, children, and other dependents, established by Kyrgyz laws, even if these rights were not registered independently;
- Right of temporary use, lease or sublease for the term of less than 3 years;
- Right of preferential use of real property by its actual users established by Kyrgyz law;
- Rights of tax authorities established by Kyrgyz law;
- General restrictions and prohibitions (related to health care, public security and environmental protection) set forth in Kyrgyz law.

<sup>72</sup> Article 24 of the Civil Code of the Kyrgyz Republic (with the latest amendments as of 3<sup>rd</sup> August 2013)

<sup>73</sup> The Law of the Kyrgyz Republic “On State Registration of Immovable Property Rights and Transactions” dated 22<sup>nd</sup> December, 1998 (with the latest amendments as of 9<sup>th</sup> July 2013).

<sup>74</sup> <http://www.doingbusiness.org/data/exploreeconomies/kyrgyz-republic/>

## Land Relations

The principal regulatory act governing land relations in the Kyrgyz Republic is the Land Code of the Kyrgyz Republic<sup>75</sup> according to which, the land fund in the Kyrgyz Republic comprises the following:

- Agricultural land including farmland and land occupied by on-farm roads, communications, water reservoirs, buildings and structures necessary for farming;
- Residential land (in towns, urban villages, and rural settlements);
- Industrial, transport, communications, defence and other infrastructure land;
- Specially protected areas;
- Forest land;
- Water-related land;
- Reserve land;
- State mineral reserve land;

The transformation (conversion) of land from one category into another is set forth in the Land Code of the Kyrgyz Republic, and the Regulation on procedure for transformation (conversion) of land plots from one category into another or from one type of land into another.<sup>76</sup>

## Receiving the Right to Land

There are two ways to receive the right to land under Kyrgyz law:

- Transfer of the right to own or use a private land by an owner or user of this land under a civil transaction;
- Transfer of the right to own or use a public or municipal land by a competent authority.

Model Regulations setting forth the terms and conditions of the fee-based transfer of the right to own or lease municipal lands were adopted on September 23, 2011 under Kyrgyz Government Resolution N 571.

The right to land may be sold by auction, tender or direct sales by the land commission established for this purpose.

The right to land may be sold by direct sales in the following cases:

- a) If there is a private building or facility, including incomplete construction, on the land plot previously provided for fixed-term (temporary) use;
- b) If the land plot was put up for auction twice but was not leased out;
- c) If the land plot adjoins (borders) with part of a private building or facility for the construction of an entrance to, improvement or extension of the said objects, provided that the said land plot cannot be formed as a standalone unit of real property and the transfer of rights over such land plot to third persons may entail violation of rights of owners of these building or facilities;
- d) If the land plot adjoins (borders) with part of a private building or facility or is close to it, and is needed for setting up and maintaining parking lots, when the transfer of rights over such land plot to third persons may entail violation of rights of owners of these buildings or facilities.

As a result of the auction or direct sales, the parties execute the land purchase and sale agreement or the land lease agreement.

<sup>75</sup> The Land Code of the Kyrgyz Republic of 2<sup>nd</sup> June 1999 (with the latest amendments as of 15<sup>th</sup> November 2013).

<sup>76</sup> The Law of the Kyrgyz Republic "On transformation (conversion) of land plots" dated 15<sup>th</sup> July 2013.

The agreement must be registered with the local registration authority and does not require notarization.

The sale of municipal land is effectuated by Bishkek Mayor's Office through the Land Committee which determines, within the scope of its authority, the list of land plots offered for sale.

The preliminary purchase price of the land plot is determined by negotiation between the land committee and the purchaser. The final purchase price is determined by independent appraisers based on the land documentation provided.

## **Residential Property**

Citizens and legal entities have the right to own residential property without limitation<sup>77</sup>.

### **Receiving the Right to Residential Property**

The grounds for creation of rights and obligations in respect of the residential property are:

- 1) acts of governmental and local authorities;
- 2) contracts and other transactions stipulated by law;
- 3) judicial acts;
- 4) decisions of authorized bodies of legal entities to reorganize the same;
- 5) membership in building cooperatives;
- 6) other grounds stipulated by law.

The right to residential property arises from the moment of its state registration in the manner provided by law.

In the past, the right of foreign entities or individuals to purchase, exchange or receive as a gift the residential property in the Kyrgyz Republic was subject to permission of a special interdepartmental committee<sup>78</sup>. Nowadays, with the enactment of Governmental Resolution No. 643 of 28<sup>th</sup> November 2013 introducing amendments to Governmental Resolution approving the Rules for State Registration of Rights and Encumbrances (Restrictions) on Immovable Property Rights and Transactions dated 15<sup>th</sup> February 2011, 49 and repealing some Governmental acts, foreigners may acquire residential property without such permission.

## **Recreation Area**

Under Kyrgyz law<sup>79</sup>, recreation assets (i.e. assets used in recreation, health improvement, and tourism) may be owned by governmental and local authorities or by private individuals and legal entities.

### **Restrictions on Foreign Ownership of Immovable Property**

There are no restrictions in Kyrgyz law on the right of foreign persons to acquire buildings and structures as long as they refer to non-residential assets.

Foreign persons may not own recreation, infrastructure or tourism assets, but they may use such

<sup>77</sup> The Housing Code of the Kyrgyz Republic dated as of 9<sup>th</sup> July 2013

<sup>78</sup> Government Resolution No. 82 of 15<sup>th</sup> February 1999 (with the latest amendments as of 13<sup>th</sup> December 2007).

<sup>79</sup> The Law of the Kyrgyz Republic "On Sustainable Development of Issyk-Kul Ecological and Economic System" dated 13<sup>th</sup> August, 2004 (with the latest amendments as of 19<sup>th</sup> October 2013)

assets for a maximum of 49 years subject to permission of the Kyrgyz Government and consent of Kyrgyz Parliament.

Also, there are a number of legal restrictions on the right of foreign persons to own land in the Kyrgyz Republic. A foreign person is a person who must meet one of the following:

- be a foreign national or stateless person;
- be a foreign legal entity, i.e. a legal entity which must meet one of the following:
  - be established and registered under the laws of a foreign state;
  - be fully owned by one or more foreign individuals or legal entities;
  - be controlled or managed by one or more foreign individuals or legal entities under a written contract, the right to sell a majority of the voting shares, the right to appoint a majority of members of its executive or supervisory body;
  - be registered within the Kyrgyz Republic and have at least 20% of its charter capital owned by foreign nationals, stateless persons, or legal entities mentioned in this paragraph;
  - be established by an international agreement or treaty.

The land rights of foreign persons are limited to the following:

- Foreign persons may not own or use agricultural land<sup>80</sup>.
- Foreign persons may not own or use any land except residential land which has been foreclosed under a mortgage loan agreement in accordance with Kyrgyz Pledge Law. Also, foreclosed agricultural land may belong to foreign banks and specialized financial institutions but only for the period of three years<sup>81</sup>.
- Foreign persons may use non-residential land transferred thereto by way of universal succession, except agricultural and mining use land, subject to permission of the Kyrgyz Government, for the period of up to 50 years.
- Foreign persons who have acquired ownership of land by way of universal succession (inheritance, reorganization) must alienate such land to a Kyrgyz national or legal entity within one year from the date of acquiring such ownership.

In general, under Kyrgyz law, any immovable property which has been lawfully acquired by a person but may not belong to it by operation of law must be alienated by such person within one year from the date of acquiring, unless other period is provided by law.

The immovable property not alienated within one year will be, depending on its type and purpose, either subject to forced sale by the court decision at the request of the state authority or local community with the proceeds from its sale being transferred to the former owner, or appropriated for state or communal needs with its value determined by the court being refunded to the former owner, less the cost of sale.

Kyrgyz law does not clearly regulate the procedure for waiver of immovable property rights with simultaneous determination of an owner. The ownership right is terminated upon alienation by the owner of their property to other persons, or waiver of the ownership right by the owner, or perish or destruction of the property or loss of the ownership right to the property, or in other cases provided by law. An

<sup>80</sup> Article 7 of the Law of the Kyrgyz Republic "On Management of Agricultural Land" dated 11<sup>th</sup> January, 2001 (with the latest amendments as of 22<sup>nd</sup> July, 2011).

<sup>81</sup> Article 5 of the Land Code

individual or legal entity can waive the ownership right to their property having declared this waiver or having performed other actions expressly evidencing that they were deprived of possession, use or disposal of the property without an intention to preserve any rights to this property. However, waiver of the ownership right does not entail termination of the owner's rights and obligations with respect to the relevant property until the ownership right to this property is acquired by the other person<sup>82</sup>.

The owner voluntarily waiving their ownership right or other rights to the immovable property can apply to the authority for registration of immovable property rights in person with a written request stating their waiver of the ownership right and other rights to the immovable property. In this case, the owner's waiver of the ownership right or other rights must be recorded in the respective files<sup>83</sup>.

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82 The Civil Code of the Kyrgyz Republic: Part I.

83 The Rules of state registration of immovable property rights and encumbrances (restrictions) thereon and related transaction, approved by Resolution of the Government of the Kyrgyz Republic dated 15<sup>th</sup> February, 2011 No. 49 (with the latest amendments as of 28<sup>th</sup> November 2013).

## 12. INTELLECTUAL PROPERTY

### Legal Framework for Intellectual Property Protection

The legal framework for intellectual property (IP) protection in the Kyrgyz Republic includes national legislation and international treaties to which the Kyrgyz Republic is a party.

The primary legislation regulating intellectual property comprises the Civil Code of the Kyrgyz Republic, the Patent Law<sup>84</sup>, the Law of the Kyrgyz Republic “On Trademarks, Service Marks and Appellations of Origin”, Law of the Kyrgyz Republic “On Copyright and Neighbouring Rights”, Law of the Kyrgyz Republic “On Legal Protection of Computer and Data Base Software”, other laws and sub-laws.

The Kyrgyz Republic is a party to **international treaties on intellectual property**. The principal treaties are: the Paris Convention for the Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, the Patent Cooperation Agreement, and the Madrid Agreement Concerning the International Registration of Marks and the Protocol relating to that Agreement. In addition, since December 1998 the Kyrgyz Republic has been a member of the World Trade Organization (WTO). The requirements of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights served as the basis for the national intellectual property legislation.

### Industrial Property

Legal protection of industrial property (inventions, utility models, industrial designs, brand names, trademarks, service marks and appellations of origin) is provided on the basis of registration.

Right to an invention, utility model, and industrial design is protected by a patent that proves priority, authorship, and exclusive right of the patent holder to the given object of industrial property. Upon registration of a trademark, service mark, or appellation of origin a certificate is issued to prove the trade or service mark owner's exclusive right to use and dispose of the mark, or owner's right to use the registered appellation.

The public agency authorized to register these objects in the Kyrgyz Republic is the State Service of Intellectual Property and Innovation under the Government of the Kyrgyz Republic (Kyrgyzpatent).<sup>85</sup>

### Inventions, Utility Models, and Industrial Designs

**An invention** is subject to protection when it is new, has an inventive level, and is industrially applicable. An invention patent is valid for 20 years from the date of submission of respective application to Kyrgyzpatent. A patent to a pharmaceutical invention may be extended upon request of its holder, but for not more than 5 years.

**A utility model** is subject to protection if it is new and industrially applicable. A patent to a utility model is valid for 5 years from the date of respective application to Kyrgyzpatent, and may be extended upon request of the patent holder, but for no more than 3 years.

**An industrial design** is subject to protection if it is new and original. A patent to an industrial prototype is valid for 10 years from the date of respective application to Kyrgyzpatent, and may be extended upon request of the patent holder, but for no more than 5 years.

<sup>84</sup> Kyrgyz Patent Law dated 14 January 1998 (as last amended on January 25, 2013).

<sup>85</sup> Official website of Kyrgyzpatent: <http://www.kyrgyzpatent.kg>

## Trademarks, Service Marks, and Appellations of Origin

A trademark or service mark is a designation which identifies goods or services of particular individuals or legal entities from those of others. A trademark may be designated by verbal, visual, volumetric or other signs or their combination<sup>86</sup>. A person applying to Kyrgyzpatent for a trademark can be previously not using such trademark for the goods and services specified in the application. Kyrgyz law does not require the applicants to confirm the prior use or intent to use the trademark when filing an application for registration.

The goods and services are classified according to the tenth edition of the International Classification of Goods and Services approved by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

A registered trademark is confirmed by a certificate. The period of validity of a registered trademark is 10 years from the date of filing with possibility of renewal for another 10 years at the trademark holder's request filed within the last year of its validity.

An appellation of origin means the geographical name of a region or locality, or country, used to designate a product originating in that region, locality, or country, and the quality or characteristics of which are essentially or exclusively due to the particular geographical environment comprising inherent natural and human factors thereof. A registered appellation of origin is confirmed by a certificate. The period of validity of the certificate is 10 years and is renewable for another 10 years at the request filed before its expiration.

## Copyright

Kyrgyz law protects works of science, literature, and art (copyright), as well as phonograms, performances, broadcasts by broadcasting and cable casting organizations (neighbouring rights). Protection is provided without registration of respective works or any other formalities. Copyright is valid for the life of the author and 50 years after their death.

Copyright covers software and data bases, both released and not released, represented in objective form, regardless of their tangible medium, purpose, and value. Legal protection applies to any type of software in any language and in any form, including source code and object code.

Authors may protect their moral rights to an unpublished work and right holders may protect their exclusive proprietary rights to a work at any time during the period of copyright protection by registering them in Kyrgyzpatent's official registries which is confirmed by a certificate.

## Representation

Foreign persons or their patent attorneys handle cases related to IP protection through patent attorneys registered with Kyrgyzpatent<sup>87</sup>. Residents of the countries which signed a bilateral agreement with the Kyrgyz Republic establishing mutual simplified procedures for IP rights can handle the cases related to obtaining a patent, registering a trademark and other activities independently or through their national patent attorneys unregistered in the Kyrgyz Republic. Under such agreements, individuals and legal entities of a foreign state enjoy in the territory of the Kyrgyz Republic the same

<sup>86</sup> Article 2, part 3 of the Law "On Trademarks, Service Marks and Appellations of Origin" dated 14 January 1998 (as amended February 27, 2003).

<sup>87</sup> Article 6, part 3 of the Law of the Kyrgyz Republic «On Trademarks, Service Marks and Appellations of Origin» of January 14, 1998 (as last amended February 27, 2003).

rights and preferences as are currently provided to Kyrgyz individuals and legal entities. The Kyrgyz Republic has signed such agreements with eight countries<sup>88</sup>.

### Protection of Intellectual Property Rights

Kyrgyz customs authorities ensure protection of copyright and neighboring rights, trademarks and appellations of origin. For this purpose, at the request of right holders or their representatives, IP rights are entered in the register of protected intellectual property rights for up to two years upon payment of an appropriate fee. When the customs clearance of the goods bearing intellectual property reveals any signs of counterfeit, these goods shall be kept in temporary storage, and the release of such goods shall be suspended for 10 days with the possibility of renewal for the same period. During this period, the right holder or his representative shall submit to the customs authorities the documents confirming the start of litigation to restore legal rights and interests in respect of suspended goods.

A holder of the IP right may apply to the state antimonopoly authority for the suppression of unfair competition. A decision (order) of this authority shall be binding throughout the territory of the Kyrgyz Republic in full and within specified time. Those who disagree with the decision (order) of state antimonopoly authority may appeal it to the court<sup>89</sup>.

Kyrgyz law establishes civil, administrative, and criminal liability for violation of intellectual property rights.

**The Code of Administrative Liability** imposes administrative fines as punishment for intellectual property violations. The court is the competent authority which reviews administrative violations in this area.

**Criminal liability** for violation of intellectual property rights is imposed by the Criminal Code of the Kyrgyz Republic. Thus, the violation of intellectual property rights is punishable by sanctions up to imprisonment.

According to the general rule, intellectual property rights are protected by judicial procedure. These disputes fall within the jurisdiction of state courts.

As of today, there are 15 certified patent attorneys operating in Kyrgyzstan.<sup>90</sup>

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<sup>88</sup> Kyrgyzstan has signed bilateral agreements on cooperation in the area of intellectual property with Kazakhstan (of 08.04.1997), Belarus (of 27.11.2006, entered into force in 22.09.2007), Armenia (of 21.04.1997), Turkey (of 13.10.1998 r.), Azerbaijan (of 23.04.1997), Uzbekistan (of 24.12.1996), Russia (of 13.10.1995), PRC (of 09.06.2006).

<sup>89</sup> Article 20 of the KR Law on Competition.

<sup>90</sup> Based on information found on the official website of Kyrgyzpatent: <http://patent.kg/index.php/ru/attorneys.html>

## 13. ANTI-MONOPOLY REGULATION

### Legislation

Anti-monopoly legislation of the Kyrgyz Republic consists of the Law of the Kyrgyz Republic, “On Competition”, Law of the Kyrgyz Republic “On Natural and Permitted Monopolies”, Law of the Kyrgyz Republic “On Advertising”, and other laws and regulations.

The anti-monopoly authority and line public authorities within the scope of their respective powers regulate and supervise natural and permitted monopolies. The public authority in charge of implementation of a general state policy on protection and development of competition, state regulation and supervision of natural and permitted monopolies, prevention, restriction and restraint of monopoly activities and bad faith competition, and regulation of fuel and energy sector of the Kyrgyz Republic is the State Agency for Anti-Monopoly Regulation under the Government of the Kyrgyz Republic.

### Unfair Competition

Unfair competition is any action of a business entity, which is aimed at obtaining an advantage against principles of good faith, reasonability and fairness, and may cause or has caused losses to competing business entities or damage to their reputation.

The State Agency for Anti-Monopoly Regulation under the Government of the Kyrgyz Republic pursues a policy aimed at the prevention of unfair competition at the market by controlling the market participants. The functions of the state anti-monopoly authority are as follows:

- Assessment of the competitive environment in the respective markets of goods and services (works);
- Protection of rights of business entities and individuals against monopolistic abuses, unfair competition, and acts and actions (omissions) of state government and local self-government bodies directed at limiting competition;
- Issuance of opinions on bills pertaining to protection and development of competitive environment;
- Approval of prices (tariffs) for services (works);
- Review of complaints and claims of individuals and legal entities of any type of ownership asserting non-compliance with antimonopoly, consumer protection and unfair advertising laws; and
- others.

#### **The following actions are prohibited as unfair competition practices:**

- Unauthorized copying of the business entity’s goods and form of packaging and exterior design, except for the goods whose appearance is conditioned by their technical function;
- Direct reproduction of the other business entity’s products by violating its patent rights;
- Illegal use of another person’s trademark, service mark, appellation of origin, business name, capable of creating confusion with other business entity;
- Distribution of false or distorted information on business profile and financial condition of the other business entity, capable of causing damage or harming its business reputation;
- Manufacture, sale, or other entry of the other business entity’s products in the market by violating its intellectual property rights and similar rights of participants of civil turnover of goods, works and services (illegal use);
- Disclosure in the distorted way of the data on scientific and technical and production abilities of the competitor;

- Intentional violation, disruption, and termination by illegal means of the competitor's business relations;
- Bringing pressure by illegal means on the competitor's employees with an aim of inducing them to neglect of duties;
- Illegal receipt, use and disclosure of data on scientific-technical, production, or commercial activities of a business entity, including its trade secret;
- Agreements (concerted actions ) limiting competition;
- Bringing pressure by illegal means on the making and carrying out of business decisions by the competitor for the purposes of getting unfounded predominance over it;
- Unfounded appeals (addresses) to other market participants encouraging to terminate business relations of the competitor or prevent them from being established;
- Dissemination of any data capable of misleading consumers about the origin, method of manufacture, usability, or quality and other features of merchandise of the business entity, identity of the entrepreneur or characteristics of their business activity;
- Marking a merchandise by an improper distinguishing sign for the purposes of misleading consumers regarding the consumption and other important qualities of the merchandise;
- Concealing the fact that the merchandise is inconsistent with its purpose or requirements set for it;
- Intentional bulk sale of certain kinds of merchandise in the respective market for the purposes of price manipulation, in cases when this is directed at limiting competition or affects the interests of consumers.

**Business entities which have a dominant position in the market are prohibited from taking the following actions which may limit competition and/or infringe upon interests of other business entities or citizens:**

- Impeding access to the market for other business entities;
- Withdrawal of merchandise from circulation with the purpose of or resulting in the creation and/or supporting its deficit at the market or with the purpose of raising prices;
- Imposing contractual terms on a counteragent which are disadvantageous for it or are irrelevant to the subject of the agreement (unfounded demands to transfer funds, other property, property rights, workforce of the counteragent, etc.)
- Inclusion in the contract of discriminatory or privileged terms which put the counterpart in unequal position compared to the position of other business entities;
- Forcing the counteragent (consumer) to enter into an agreement only with certain manufacturer or purchaser;
- Consenting to enter into an agreement only on condition of introducing into it the provisions on merchandise in which the counterpart (or consumer) is not interested;
- Breaching the pricing procedure including the establishment and maintenance of monopolistically high (low) prices;
- Economically or technologically unfounded reduction or termination of manufacture of merchandise, if there is demand for it or supply orders for it are placed, if it can be profitably manufactured, and if such agreement or termination of manufacture of merchandise is not directly provided by Kyrgyz law or judicial acts;
- Unfounded refusal to perform the conditions of the agreement not attributable to force majeure events;
- Economically or technically unfounded refusal or evasion from entering into the agreement with certain buyers (customers) if there is a possibility of manufacture or supply of the respective merchandise and if such refusal or evasion is not directly provided by Kyrgyz law or judicial acts;
- Collusion for the purpose of limiting competition, which can be proved by the economic analysis of the situation;
- Creation of discriminatory or exceptional conditions;

- Economically, technologically or otherwise unfounded establishment of various prices (tariffs) for one and the same goods, unless otherwise provided by Kyrgyz law.

### **Anti-competitive agreements of business entities limiting competition**

The following shall be prohibited as anti-competitive concerted actions of competing business entities:

- Establishing (maintaining) prices (tariffs), discounts, allowances (surcharges), margins;
- Increasing, decreasing or maintaining prices on the same level in the market;
- Division of the market by territory, scope of sales or procurements, assortment of goods being sold, types of provided services or range of sellers or buyers (customers);
- Limiting market entry or exit for other business entities as sellers of certain merchandise or their buyers (customers);
- Coordinating scopes of production for the purposes of artificial change of the scope of offers;
- Unfounded refusal from contracting with certain sellers or buyers (customers);
- Establishing price discrimination;
- Artificial increase (decrease) of prices for goods leading to limitation of competition;
- Unfounded decrease or termination of supply of goods for invalid reasons;
- Establishing standard terms and conditions of contracts which put consumers into a disadvantageous position or limit the freedom of choice of goods and business entities manufacturing these goods or have provisions irrelevant to the subject of the contract;
- Providing some business entities with an opportunity to acquire a substantial amount of goods in the conditions of limited offer.

The following shall be prohibited as anti-competitive concerted actions of non-competing business entities:

- Imposing contractual terms which are disadvantageous for the counteragent;
- Imposing exceptions which require purchasing certain goods only from the given seller, but not its competitor;
- Limiting territory or range of buyers;
- Imposing price limitations on resale of goods acquired by the buyer;
- Prohibiting sale of goods manufactured by the competitors.

In the following exceptional cases, anti-competitive concerted actions shall be recognized by the antimonopoly authority as legal:

- If a business entity proves that positive effects outweigh negative effects of the agreement (concerted actions),
- If they do or may result in (a) the better manufacture or sale of goods, promotion of technical or economic progress, or increased competitiveness of goods in the world market, (b) the creation of advantages (benefits) for the buyers commensurate with those acquired by business entities as a result of actions (omissions), agreements or concerted actions or transactions.

### **Liability**

Persons guilty of violating antimonopoly law shall be held liable in accordance with Kyrgyz law. The imposition of liability shall not exempt the culprits from the obligation to execute the decision of the antimonopoly authority.

### **Powers of the Anti-Monopoly Authority**

The anti-monopoly authority and its local offices shall within the scope of their powers exercise state supervision of compliance with antimonopoly legislation of the Kyrgyz Republic, in particular:

- over development and protection of competition to ensure effective functioning of markets of goods, works and services (de-monopolization of monopolistic sectors of economy, assessment of competitive environment, development of proposals on removal of barriers to competition, approval of fees for permit documents of executive bodies, review of petitions/notices of business entities on merger, reorganization, liquidation, acquisition of shares (interests) in the charter capital of commercial organizations, making decision on forcible division of business entities occupying dominant position in the market and engaged in monopolistic activity, etc.);
- over effective state control to ensure compliance with Kyrgyz law on antimonopoly and pricing regulation (balancing the interests of consumers and natural and permitted monopoly entities, formation and maintenance of the public registry of natural and permitted monopoly entities, establishment of maximum allowed level of domination of business entities, etc.);
- over protection of the legal rights of consumers against monopoly and unfair competition (maintenance of the database of free and paid services, approval of prices (tariffs) of services (works) provided by state government and local self-government bodies, approval of prices (tariffs) of services (works) provided by educational and medical institutions, organizations, irrespective of ownership form, etc.);
- over regulation of the advertising activity of advertisers, advertising agent, and advertising distributors (protection against unfair competition in advertising, prevention and suppression of improper advertisement, sending materials related to violations of the advertising legislation to the licensing authorities to have the license of the violating entity suspended or revoked, etc.);

### **Methods of Anti-Monopoly Regulation:**

- Price regulation by the establishment of prices/tariffs or their limits;
- The establishment of profitability limits;
- Identification of consumers/subscribers entitled to mandatory servicing, and/or establishment of minimal level of their supply in cases where their needs in goods/services produced/sold by a natural or permitted monopoly may not be fully satisfied, taking into account the protection of citizens' rights and legal interests, national security, the protection of the environment, and the protection of cultural property;
- The imposition of trade mark-ups;
- The imposition of obligations on engineering and technical services being natural monopoly entities, development of respective nets of engineering and technical maintenance in case it is impossible to fully satisfy the demands for goods (services) manufactured (provided) by this entity.

## 14. ENVIRONMENTAL PROTECTION

Ecological safety is an essential part of the country's national security and is a mandatory prerequisite for conservation of natural systems and sustenance of environmental quality.

### Legislation

Kyrgyz law contains provisions governing relations on the environmental protection and the rational use of natural resources. Among them are the Law of the Kyrgyz Republic "On Environment Protection", "On Protection of Atmospheric Air", "On Specially Protected Natural Areas", "On Biosphere Areas in the Kyrgyz Republic", "On Radiation Safety of Kyrgyz Population", and other normative legal acts that establish a legal basis for the protection of the environment and its components. Special requirements on ecological safety for the protection of atmospheric air, water objects, species of fauna and flora, soil and natural landscapes, as well as for the disposal of the production and consumption waste are set forth in the Law "General Technical Regulations to Ensure Ecological Safety in the Kyrgyz Republic" as of the 8<sup>th</sup> of May, 2009.

The Kyrgyz Republic is getting more actively involved in the world community activity aimed at restraining global environmental threats including the process of the unification efforts of states. Since 2007, the Kyrgyz Republic has acceded to 11 international environmental conventions and 3 protocols to them<sup>91</sup>.

Currently, the public executive authority in charge of environmental protection, ecological security and nature management policy is the State Agency for Environment Protection and Forestry under the Government of the Kyrgyz Republic<sup>92</sup>.

The State Inspection Office for Environmental and Technical Safety under the Government of the Kyrgyz Republic is the public executive authority established in the process of administrative reform to exercise supervision and control over environmental and technical safety<sup>93</sup>.

### Environmental Impact Review

Under the legislation of the Kyrgyz Republic, business entities' projects related to the use of natural resources are subject to environmental impact review<sup>94</sup>. This requirement has been introduced to prevent negative consequences for public health and the environment that may be caused by business and other activities. In addition, the adequacy of planned activities has to be assessed at stages preceding decisions on compliance with legislation on the environmental protection of the Kyrgyz Republic.

The following two types of environmental impact review are being performed in the Kyrgyz Republic: **a state review of environmental impact** and **a public review of environmental impact**. It is prohibited to fund and implement projects related to the use of natural resources if they have not undergone a state review of their environmental impact.

91 Concept paper on ecological safety of the Kyrgyz Republic approved by Kyrgyz Republic Presidential Edict No. 506: of 23<sup>rd</sup> November, 2007.

92 Regulations on the State Agency for Environmental Protection and Forestry under the Government of the Kyrgyz Republic approved by Governmental Resolution No. 123 of 20<sup>th</sup> February, 2012.

93 Regulation on State Inspection Office for Environmental and Technical Safety under the Government of the Kyrgyz Republic N 136, dated as of 20<sup>th</sup> February 2012.

94 The Law of the Kyrgyz Republic "On Environmental Impact Review", No. 54, dated 16<sup>th</sup> June, 1999 (with the latest amendments of 26<sup>th</sup> February, 2007).

In the course of designing, placing, constructing, reconstructing, re-equipping, and clearing objects and activities that may directly or indirectly influence the environment for operation, steps for protection, rational use, replenishment of natural resources and environmental enhancement have to be taken subject to the environmental norms, and impact of the planned activities upon the environment has to be assessed.

### **Environmental Standardization and Certification**

Products/processes/services produced within the Kyrgyz Republic or imported into its territory that are potentially threatening environmental safety, people's health or lives, or the replenishment and rational use of natural resources, are subject to environmental standardization and certification. A list of such products is approved by the Government of the Kyrgyz Republic.

### **Environmental Impact Audit**

To prevent and restrain violations of environment legislation and assess the prospective risk of pollution as a result of a company's previous activities, independent experts may provide an environmental impact audit for the purpose of the company's self-testing. Legal entities interested in an environmental impact audit perform it using their own funds or funds raised subject to the procedure provided by legislation.

## 15. CUSTOMS REGULATION

Customs relations in the Kyrgyz Republic are regulated by the Customs Code of the Kyrgyz Republic, specific laws, other legislation of the Kyrgyz Republic, as well as international treaties and other customs provisions of international law.

The authority in charge of customs regulation in the Kyrgyz Republic is the State Customs Service under the Government of the Kyrgyz Republic.

Goods and vehicles shall be moved across customs frontiers subject to the procedures established by the Customs Code of the Kyrgyz Republic.

The procedure of crossing a customs frontier where it coincides with the national frontier of the Kyrgyz Republic is set forth by the legislation on the national frontier, while the aspects not regulated by it are subject to regulation by customs legislation of the Kyrgyz Republic.

All goods and vehicles crossing the customs border, including in the course of international economic activities, shall be subject to customs clearance and customs control according to the procedure and on conditions provided by the Customs Code of the Kyrgyz Republic.

The import of goods into the customs territory of the Kyrgyz Republic and their export from the customs territory of the Kyrgyz Republic entails responsibility of the parties moving the goods to apply one of the customs regimes provided by the Customs Code of the Kyrgyz Republic to the goods, and to follow the requirements of this regime.

### Customs Regimes

The existing customs legislation of the Kyrgyz Republic provides for the following 15 customs regimes:

- Release for free circulation
- Re-import
- Customs warehouse
- Duty-free shop
- Processing within the customs territory
- Processing under customs control
- Processing outside the customs territory
- Temporary imports
- Temporary exports
- Export
- Re-export
- Transit
- Disposal
- Abandonment to the state
- Special customs regimes

Customs regimes in special economic zones are established and applied in the manner provided by Kyrgyz law.

### Customs Charges

In the Kyrgyz Republic, customs charges include:

- a customs duty established under Kyrgyz customs tariff law
- a value added tax on taxable import established under Kyrgyz tax law
- an excise tax on import established under Kyrgyz tax law
- seasonal duties
- special duties (protective , anti-dumping , compensatory ) referring to non-tariff measures under Kyrgyz law on state regulation of foreign trade
- customs fees

### Customs Control

Customs control is a set of measures applied by customs authorities to assure compliance with customs legislation.

**Customs Control Targets:** The following are subject to customs control by customs authorities:

- Goods and vehicles moved across the customs border;
- Documents that contain information on the goods and vehicles and are required for submission to tax authorities by the Customs Code of the Kyrgyz Republic;
- Activities of persons included in the registry of persons engaged in customs-related services;
- Compliance with the established restrictions upon use and disposal of goods
- Calculation and payment of customs charges

### Forms of Customs Control:

- Inspection of documents and information
- Verbal questioning
- Clarifications
- Inspection of goods and vehicles
- Customs inspection
- Personal inspection
- Special marks or identification signs of goods in cases provided by the current legislation of the Kyrgyz Republic
- Customs control with use of audit methods;
- Accounting of goods.

## 16. TECHNICAL REGULATION

The Law of the Kyrgyz Republic “On the Basics of Technical Regulation in the Kyrgyz Republic”<sup>95</sup> establishes a legal framework for:

- development, adoption, application and compliance with mandatory requirements for products and/or processes related to their design (including research), production, installation, adjustment, storage, transportation, sale, operation and recycling ;
- development, adoption, application and compliance with requirements for products or processes related to their design (including research), production, construction, installation, adjustment, storage, transportation, sale, operation, recycling, performance of works, rendering of services, and compliance assessment.

The public authority in charge of technical regulation is the Ministry of Economy of the Kyrgyz Republic,<sup>96</sup> which develops and implements a general state policy in the area of technical regulation. The Ministry of Economy of the Kyrgyz Republic is also responsible for performance of obligations undertaken by the Kyrgyz Republic under the Agreement on Technical Barriers to Trade<sup>97</sup> and Agreement on Application of Sanitary and Phytosanitary Measures.<sup>98</sup>

**Technical regulations** may only be adopted for safety purposes, namely:

- Protection of human life and health
- Environmental protection
- Protection of life and health of animals and plants
- Prevention of actions that may mislead consumers of a product

The Government of the Kyrgyz Republic approved the programs for developing the following technical regulations:

- within 2012-2013<sup>99</sup> the general technical regulations on safety of leguminous crops and their derivative products, safety of nuts and nut-based products, safety of the processes of production, storage, transportation, sale and recycling of crop products, safety of veterinary drugs, etc.

In accordance with the above program, in 2012 the Government of the Kyrgyz Republic<sup>100</sup> adopted general technical regulations on electromagnetic compatibility of technical equipment, safety of milk and processed milk products, safety of drugs made in pharmacies, safety of non-alcoholic beverages, etc.

The development and application of technical regulations will contribute to the formation and improvement of the legislation on technical regulation in line with the international standards and requirements. This will ensure appropriate safety with the account of interests of industries and areas of practice.

95 The Law of the Kyrgyz Republic “On the Basics of Technical Regulation in the Kyrgyz Republic” # 171, dated 22<sup>nd</sup> May, 2004 (as last amended 14<sup>th</sup> October, 2011).

96 Decree of the Government of KR No. 267, dated as of 29<sup>th</sup> June 2005 (with the latest amendments as of 1<sup>st</sup> July 2013, # 395).

97 The Agreement on Technical Barriers to Trade dated 15<sup>th</sup> April, 1994.

98 The Agreement on Application of Sanitary and Phytosanitary Measures dated 15<sup>th</sup> April, 1994.

99 The Program for the development of top priority technical regulations for 2012-2013, approved by Resolution No. 714 of the Government of the Kyrgyz Republic dated 11<sup>th</sup> November, 2011 (with the latest amendments as of 28<sup>th</sup> December, 2012).

100 The Decree of the Government of the Kyrgyz Republic No.24, dated as of 12<sup>th</sup> January, 2012, No. 84 dated as of 18<sup>th</sup> February, 2013, No. 320, dated as of 26<sup>th</sup> May, 2012, No. 474, dated as of 5<sup>th</sup> July, 2012.

### Standardization

Standardization documents of the Kyrgyz Republic are represented by:

- National standards of the Kyrgyz Republic
- Standardization rules, norms and recommendations
- International (regional) standards
- National standards of other countries
- Standards of organizations

International (regional) standards and national standards of other countries are recognized in the Kyrgyz Republic as national standardization documents in accordance with the methodology developed by the national standardization authority – the Standardization and Metrology Centre of the Ministry of Economy of the Kyrgyz Republic.

### Proof of Conformity and State Supervision of Compliance with Mandatory Requirements

Measures in this area are closely coordinated with administrative reform, which requires consistent development of respective resolutions of the Government of the Kyrgyz Republic.

The Government of the Kyrgyz Republic<sup>101</sup> has developed:

- (i) the general procedure for mandatory certification of products;
- (ii) the list of products subject to mandatory proof of conformity;
- (iii) the procedure for approval of the declaration of conformity and its registration;
- (iv) the nomenclature of the products to be attested as conforming by the declaration of conformity;
- (v) mandatory technical safety norms that apply to such products.

Mandatory certification is performed to confirm that a product conforms to mandatory requirements established by current Kyrgyz law, to ensure the safety and health of people and to protect the environment.

Only the products to be circulated in the Kyrgyz Republic are subject to the procedure of conformity confirmation. The mandatory certification is carried out in the form of certification and approval of the declaration of conformity. The declaration of conformity and the certificate of conformity have equal legal force throughout the Kyrgyz Republic.

The list of products subject to mandatory proof of conformity has been reduced by more than 70%. The number of conformity indicators is now about 3 times as low as before - as a result the procedure of evaluation of product conformity has become much less time-consuming and costly.

The approval and application of these documents assure transparency of mandatory evaluation of conformity, allow producers (suppliers) to prove conformity of their products by certification or declaration, and support the shift towards internationally accepted module approaches of product conformity evaluation upon technical regulations' coming into effect.

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<sup>101</sup> Resolution No. 639 of the Government of the Kyrgyz Republic dated 30<sup>th</sup> December, 2005 (with the latest amendments as of 6<sup>th</sup> March 2013)

The Government of the Kyrgyz Republic<sup>102</sup> has established a unified procedure for the recognition of results of mandatory conformity certification by relevant authorities of the exporting countries on the basis of multilateral or bilateral agreements, or subject to a unilateral procedure. The Kyrgyz Republic recognizes conformity certificates, conformity declarations and test records obtained in the Republic of Azerbaijan, Georgia, the People's Republic of China, the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Republic of Moldova, the Russian Federation, the Republic of Tajikistan, the Republic of Uzbekistan, the Republic of Turkmenistan and Ukraine, in cases where requirements to products are equivalent.

The Kyrgyz Republic unilaterally acknowledges the proof of conformity of the following:

- Products of Iran, Slovakia and Turkey – on the basis of inter-agency agreements on mutual recognition of certification authorities, testing laboratories/centres, results of testing and certification, conformity certificates and conformity signs;
- Products marked by the CE mark of the European Union , irrespective of the country of origin, if the genuineness of the CE mark is confirmed by respective documents (the certificate of conformity or the declaration of conformity of the manufacturer).

The mandatory certification is not required for the following:

- goods imported for personal use by individuals within limits established by Kyrgyz regulatory acts;
- products meant for official use by representative offices of foreign states and international or intergovernmental organizations, as well as by their personnel;
- products imported and placed under customs regimes not imposing non-tariff measures on the goods under the Customs Code of the Kyrgyz Republic;
- second-hand products.

<sup>102</sup> Resolution No. 8 of the Government of the Kyrgyz Republic dated 11<sup>th</sup> January, 2006 (with the latest amendments as of 23<sup>rd</sup> October, 2007).

## 17. INSURANCE

### Legislation

Activities of insurance companies are regulated by the Law of the Kyrgyz Republic “On Organization of Insurance in the Kyrgyz Republic”<sup>103</sup>, “On Mandatory Insurance of Employer Civil Liability for Death or Injury of Employee While on Duty”<sup>104</sup>, “On Mandatory Insurance of Carrier Civil Liability to Passengers”<sup>105</sup>, “On Mandatory Insurance of Civil Liability of Carriers of Hazardous Cargoes”<sup>106</sup>, “On Mandatory Insurance of Civil Liability of Entities Operating Hazardous Facilities”<sup>107</sup> and “On Peculiarities of Crop Insurance”<sup>108</sup> and other legal acts.

The concept of development of the insurance sector of the Kyrgyz Republic for 2013-2017 was approved on April 15, 2013 by the Government resolution to promote insurance business in the Kyrgyz Republic.

### Establishment and Licensing

Insurance companies may be founded as open or closed joint stock companies with the minimum charter capital being<sup>109</sup>:

- 30 million KGS for newly established insurance companies to engage in voluntary insurance and re-insurance;
- 25 million KGS for operating insurance companies engaged in voluntary insurance and reinsurance;
- 200 million KGS for newly established insurance companies to engage solely in re-insurance;
- 100 million KGS for operating insurance companies engaged solely in re-insurance;
- 50 million KGS for insurance companies to engage in combined mandatory insurance and re-insurance.

Insurance activity is subject to licensing, and a separate license is required for each type of insurance activity. A license is valid for an unlimited period, unless otherwise provided therein. Insurance may be performed in either national or foreign currency.

As of January 1, 2013, there were 16 insurance, including two reinsurance organizations operating in the Kyrgyz Republic<sup>110</sup> and offering more than 84 types of voluntarily insurance and 5 types of mandatory insurance.

These businesses are mainly based in Bishkek (13 companies) with only 1 company, based in Jalalabat town.<sup>111</sup>

<sup>103</sup> The Law of the Kyrgyz Republic “On Organization of Insurance in the Kyrgyz Republic” dated 23<sup>rd</sup> July, 1998 (with the latest amendments as of 15<sup>th</sup> July, 2009).

<sup>104</sup> The Law of the Kyrgyz Republic “On Mandatory Insurance of Civil Liability of Employer for Death or Injury of Employee While on Duty” dated 5<sup>th</sup> August, 2008.

<sup>105</sup> The Law of the Kyrgyz Republic “On Mandatory Insurance of Civil Liability of Carrier to Passengers” dated 4<sup>th</sup> August, 2008.

<sup>106</sup> The Law of the Kyrgyz Republic “On Mandatory Insurance of Civil Liability of Carrier of Hazardous Cargoes” dated 4<sup>th</sup> August, 2008.

<sup>107</sup> The Law of the Kyrgyz Republic “On Mandatory Insurance of Civil Liability of Entities Operating Hazardous Facilities” dated 15<sup>th</sup> August, 2008.

<sup>108</sup> The Law of the Kyrgyz Republic “On Peculiarities of Crop Insurance” dated January 26, 2009 No. 31.

<sup>109</sup> Government Resolution No. 300 dated 25<sup>th</sup> November, 2010.

<sup>110</sup> [http://www.fsa.kg/?page\\_id=1930](http://www.fsa.kg/?page_id=1930)

<sup>111</sup> Report of the State Insurance Market Supervisory Authority of the Kyrgyz Republic for 2011, <http://fsa.kg/?id=2806>.

The rate of insurance premiums received is growing from year to year, thus triggering the growth of the rate of insurers entering into insurance contracts with insurance companies. Before 2005, it was mainly property and life insurance which predominated; voluntary liability insurance evolved later, with the introduction in 2010 of mandatory civil liability insurance for: employers against liability for death or injury of employees while on duty; carriers of passengers; carriers of hazardous cargoes; entities operating hazardous facilities.

The insurance premiums received in 2012 mainly refer to property insurance which accounts for 73.3% of the total insurance premiums, with life insurance representing 9.3%, liability insurance representing 8.3%, and mandatory civil liability insurance representing 9.1%<sup>112</sup>.

The amount of insurance payouts made by insurance companies increased by 94% (from 26.4 million KGS in 2005 to 51.2 million KGS in 2012), with life insurance payouts increasing 5.8 times (from 2.7 million KGS in 2005 to 15.8 million KGS in 2012), property insurance payouts increasing 3.2 times (from 9.5 million KGS in 2005 to 30.1 million KGS in 2012), and liability insurance payouts increasing by 65% (from 2.0 million KGS in 2005 to 3.3 million KGS in 2012). In 2010-2011, no mandatory insurance payouts were made since no insurance claims have been filed, while in 2012, insurance payouts reached 2.0 million KGS<sup>113</sup>.

Also, the amount of assets and capital of insurance companies is growing from year to year attesting to their being financially solvent and in good standing. Thus, the amount of total assets of insurance companies reached 1,376.5 million KGS in 2012 which is almost 6 times higher than in 2006 and 1.3 times higher than in 2011.

### Prospects for Development

Currently, the State Service for Regulation and Supervision of the Financial Market under the Government of the Kyrgyz Republic jointly with the insurance companies and other stakeholders is considering the need for introducing the new types of mandatory insurance as listed below and ensuring the development of voluntary insurance:

- Mandatory auto-owner civil liability insurance;
- Mandatory tour operator and tour agent civil liability insurance;
- Mandatory notary liability insurance;
- Mandatory realtor civil liability insurance;
- Mandatory auditor and audit organization civil liability insurance;
- Mandatory permanent structure-owner civil liability insurance;
- Mandatory fire and rescue worker accident insurance;
- Mandatory rescue worker and emergency responder accident insurance;
- Mandatory law-enforcement officer life and health insurance.

It is also planned to improve insurance regulatory framework, enhance institutional capacity and public awareness and participation, and develop investment potential of insurance companies.

<sup>112</sup> The Concept of Development of the Insurance Sector in the Kyrgyz Republic for 2013-2017 approved by the Government Resolution No. 194 of April 15, 2013.

<sup>113</sup> The Concept of Development of the Insurance Sector in the Kyrgyz Republic for 2013-2017 approved by the Government Resolution No. 194 of April 15, 2013.

## 18. SECURITIES MARKET

### Legislation

The legislation of the Kyrgyz Republic regulating the securities market consists of the Civil Code of the Kyrgyz Republic, the Law of the Kyrgyz Republic “On Securities Market”, Law of the Kyrgyz Republic “On Joint Stock Companies”, Law of the Kyrgyz Republic “On State Service for Regulation and Supervision of Financial Market of the Kyrgyz Republic”, and subordinate legislation.

Exchange Trade System (ETS) and Kyrgyz Stock Exchange consolidated into one stock exchange in March 2011. Central Asian Stock Exchange (CASE) was declared bankrupt in 2010. At the moment, there are one stock exchange (Kyrgyz Stock Exchange CJSC) and one depository (Central Securities Depository) operating in the stock market.

### State Regulation

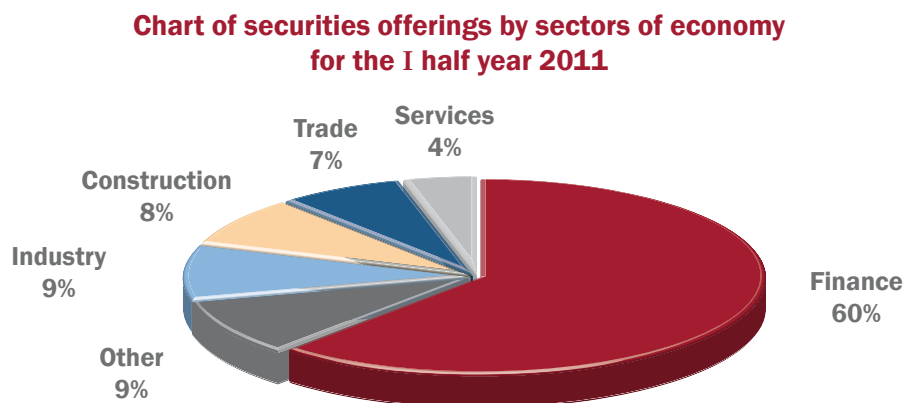
The state securities market regulator is the State Service for Regulation and Supervision of the Financial Market under the Government of the Kyrgyz Republic, which regulates the relations arising in connection with the state regulation and supervision over non-banking financial market, accounting and auditing.

The State Service for Regulation and Supervision of the Financial Market of the Kyrgyz Republic also being a supervisory authority is authorized, for the purposes of protecting the rights of investors and other third persons, to conduct inspections of securities market participants.

The state securities market regulator possesses relevant authorities to carry out inspections of securities market participants and is entitled to impose certain sanction thereon licenses professional securities market participants to carry out activities in the securities market.

### Investment in Securities

Dynamics of corporate securities by sectors of the economy for the first half-year of 2011 is as follows:



In 2012, three major companies issued bonds: Shoro JSC issued 68 million soms worth of bonds, Roskazmet LLC issued 90 million soms worth of bonds, and First Metallobaza LLC issued 50 million soms worth of bonds.

In the Kyrgyz Republic, all stock exchange transactions are carried out via licensed trade operators. There is one stock exchange operating in the securities market, the Kyrgyz Stock Exchange CJSC. Besides, this March the consolidation of the depository system was carried out resulting in the Central Depository's being vested with the functions of the single agency for securities storage and recording.

As of November 30, 2012, there were 17 companies listed on the stock exchange, which is 4 companies more than in the similar period of 2011. Three companies (Chakan HPP, Bishkekteploset and Ulan) were listed on the stock exchange within 11 months of 2012. Among the listed companies, 6 companies or 38% of all listed companies represent the service sector, 4 (25%) represents the financial services industry, 2 (12%) represent the industrial sector, 2 (12%) represent trade and 2 (12%) represent other sectors<sup>114</sup>.

In 2012, the trading volume at Kyrgyz Stock Exchange amounted to 1,169.38 million soms with the total number of transactions being 2,185.

### **Securities Market Professionals**

Currently, there is one officially registered licensed trader operator in the Kyrgyz Republic, Kyrgyz Stock Exchange CJSC (KSE).

At present, the Kyrgyz Government makes efforts to relocate all state treasury bills from the trade floor of the National Bank to the licensed trade floors, i.e. stock exchanges.

As of December 1, 2012, there were 53 professional securities market participants operating in the Kyrgyz Republic and holding 88 licenses to engage in the following activities<sup>115</sup>:

- Company registrars – 20
- Depositories – 1
- Brokers – 28
- Dealers – 24
- Trust managers – 31
- Investment fund managers – 11
- Clearing companies – 1
- Securities trading organizer - 1

There are also investment funds and investment consultants operating in the Kyrgyz Republic. In the course of the stock market establishment, the following professional associations of securities market professionals have been founded to foster the development of the Kyrgyz securities market:

- UYUM Association of Independent Registrars and Depositories;
- Association of Securities Market Professionals;
- Investment Funds Association;
- Shareholder Protection Association; and
- Institute of Corporate Governance and Development.

<sup>114</sup> The information is derived from the website of the State Service for Regulation and Supervision of Financial Market under the Government of the Kyrgyz Republic - [www.fsa.kg](http://www.fsa.kg)

<sup>115</sup> The information is derived from the website of the State Service for Regulation and Supervision of Financial Market under the Government of the Kyrgyz Republic - [www.fsa.kg](http://www.fsa.kg)

## 19. REGULATION OF SPECIFIC INDUSTRIES

### 19.1 Electric power industry

#### State Regulation

The Government of the Kyrgyz Republic develops a general policy for the electric power industry.

The purpose of state regulation of the electric power industry is to provide electricity and heating on an economically feasible, socially acceptable, and non-discriminatory basis throughout the territory of the Kyrgyz Republic, and to supervise reliability, safety, and continuity of production and consumption of electric and heating power<sup>116</sup>.

The executive authority responsible for the development and implementation of a unified state policy in the field of energy/heating and production is the Ministry of Energy of the Kyrgyz Republic.

In 2008, the Kyrgyz National Energy Program for 2008-2010 and the Fuel and Energy Industry Development Strategy until 2025 were approved<sup>117</sup>.

The Kyrgyz energy strategy prioritizes efforts towards the rational and effective use of natural fuel and energy resources and available technical, scientific and human resources.

The energy policy for 2008-2010 focuses on the following major tasks:

- Ensuring the safety and undisturbed supply of electricity, first of all, to local consumers
- Pursuing cardinal reforms in the industry management system by creating market-oriented institutional and legal frameworks and finalizing structural reforms in the fuel and energy industry
- Pursuing a well-balanced tariff and pricing policy enabling energy companies to cover their actual costs and preventing the cross-subsidizing of consumers;
- Reducing losses and stopping power thefts;
- Developing rules concerning access to power networks and sale of power generated by using alternative energy sources, and mechanisms to subsidize them;
- Improving financial and corporate governance in the fuel and energy industry, toughening requirements for commercial or financial discipline and fostering profitability of entities engaged in this industry;
- Developing programs for the technical upgrade of the industry;
- Improving investment climate in the fuel and energy industry;
- Making efforts to promote the competitive advantage of the Kyrgyz power industry in the regional electricity market;
- Developing energy efficiency and conservation program taking into account the obligations of the Kyrgyz Republic under its treaties with CIS countries;
- Developing programs for replacing hydrocarbon fuel by local alternative energy sources to reduce dependence on imported energy resources and to limit the emissions of greenhouse gases;
- Monitoring the financial condition of the electric power industry for the purposes of annually reducing a target indicator of quasi-fiscal deficit by 1-2% of GDP.

Kyrgyz energy policy, in the long-term perspective, is oriented towards protecting the legal rights and interests of citizens and business entities, fostering national defence and security capacities, promoting efficient management of state property, achieving a cardinaly different state of the fuel

<sup>116</sup> The Law of the Kyrgyz Republic "On Electric Power Industry" dated 28<sup>th</sup> January 1997 (with the latest amendments as of 24<sup>th</sup> July, 2013).

<sup>117</sup> Resolution No. 346-IV of the Jogorku Kenesh of the Kyrgyz Republic dated 24<sup>th</sup> April, 2008.

and energy industry, and rests on consistent efforts made by the state to achieve the most important strategic goals in the area of power industry development and privatization of energy facilities.

In 2008, the Kyrgyz Small and Medium Scale Energy Program until 2012; was approved<sup>118</sup>. The Program focuses on the following tasks:

- Pursuing Kyrgyz energy policy in the area of small and medium scale energy;
- Creating favourable investment climate in small and medium scale energy;
- Making efforts to introduce a specific Clean Development/Joint Implementation Mechanism subject to the requirements of the Kyoto Protocol in the area of small and medium scale renewable energy;
- Staffing and recruitment of personnel qualified to implement the program;
- De-monopolization of energy market, creating competitive environment.

The authority responsible for implementing the tasks stated in the Program is the Directorate for Small and Medium Scale Energy in the Kyrgyz Republic.

## Licensing

In the Kyrgyz Republic the following are subject to licensing: the production, transmission, distribution, and sale of electricity, the construction of power stations, substations and power lines, and the import and export of electricity (except for the activities in the field of renewable energy sources). According to the amendments to the Law of the Kyrgyz Republic “On renewable energy” in October 10, 2012, a license to operate in the field of renewable energy sources was abolished.

Under Article 3 of the Law of the Kyrgyz Republic “On renewable energy” renewable energy sources are:

- Solar energy, earth, vacuum, wind power, hydropower;
- Non-fossil and non-carbon energy sources, biomass and biofuel;
- Waste heat energy (cooling towers, transformer substations, industrial plants and other units generating secondary thermal energy).

Thus, currently the production, transmission, distribution and sale of electrical energy generated from renewable energy sources do not require licenses. Licensing is only required for the production, transmission, distribution and sale of electric energy generated from traditional energy sources, meaning under Article 3 of the Law of the Kyrgyz Republic “On renewable energy sources” the energy derived from renewable resources, particularly hydrocarbons (coal, oil, gas), and hydropower plants with an installed capacity of 30 MW or more. Apparently, hydropower plants with the capacity of 30 MW and more are not referred to renewable energy.

Foreign individuals and legal entities may obtain licenses to engage in the above activities subject to the same procedures as apply to individuals and legal entities of the Kyrgyz Republic. A license is issued for a specific activity for an unlimited term.

Currently, the State Department for Fuel and Energy Industry Regulation under the Ministry of Energy of the Kyrgyz Republic acts as a licensor.

Upon technical review of the documents submitted by an organization or an entrepreneur in order to obtain a license for production, transmission, distribution and sale of heating energy, the Department of Energy and Gas of the Ministry of Energy of the Kyrgyz Republic and the State Energy

<sup>118</sup> Decree № 365 of the President of the Kyrgyz Republic dated 14<sup>th</sup> October, 2008.

and Gas Supervisory Authority of the State Inspection Office for Environmental and Technical Safety under the Government of the Kyrgyz Republic decide whether the applicant can perform activities subject to licensing<sup>119</sup>.

### Construction and Reconstruction of Generating Capacities

The total Kyrgyz hydropower capacity is estimated at 142.5 billion kWh (placing Kyrgyzstan in 3rd position among CIS countries after Russia and Tajikistan). The total established capacity of all 17 electric power plants existing in Kyrgyzstan, of which 2 are thermal power plants (Bishkek and Osh Heat and Power Plants), the other 15 are hydro power plants is 3,586.48 MW<sup>120</sup>. Only on the Naryn River, it is feasible to build 7 more cascades consisting of 33 hydropower plants, with summarized installed capacity of 6,450 mw and annual power output of more than 22 billion kWh<sup>121</sup>.

Elektricheskie Stantsii OJSC was set up on the basis of:

- Existing cascade of Toktogul hydropower plants (Toktogul hydropower plant (1,200 MW) and Kurpsai hydropower plant (800 MW));
- Atbashy hydropower plant (40 MW);
- Enterprises of hydropower plants under construction (Tashkumyr hydropower plant (450 MW), Shamaldysai hydropower plant (240 MW), Uchkurgan hydropower plant (180 MW), Kambarata 1 hydropower plant (1,900 MW), Kambarata 2 hydropower plant (360 MW));
- Central Heating and Power Plants (CHPP) of Bishkek City (with 666 thousand kW power capacity, and 1,443.9 Gcal/hour heating capacity) and Osh City (with 25 thousand kW power capacity, and 143.515 Gcal/hour heating capacity),

In which not less than 93.72% of shares were retained in state ownership. No state shareholding may be sold, pledged, or credited against external debt of the Kyrgyz Republic, or transferred in trust, and no new shares may be issued without the consent of the Jogorku Kenesh of the Kyrgyz Republic. No property of Elektricheskie Stantsii OJSC may be alienated in any form including indirect ones, except for Kambarata 1 and Kambarata 2 hydropower plants under construction and CHPP of Bishkek City<sup>122</sup>.

In 2006, the Government of the Kyrgyz Republic approved the proposal on the phased construction of a thermal condensation electric power plant at the Kara-Keche coal deposit as a basic source of electric power<sup>123</sup>.

In July 2009, the regulations were adopted on the procedure of construction, commissioning and technological connection of small HPPs to electric networks<sup>124</sup>, defining that:

- The Ministry of Energy of the Kyrgyz Republic shall grant the right to construct small HPPs by holding a tender;
- Enterprises owning electric networks shall guarantee the connection of small HPPs to their networks;

<sup>119</sup> Resolution No. 334 of the Government of the Kyrgyz Republic dated 15<sup>th</sup> August, 2007.

<sup>120</sup> Governmental Resolution, "On Fundamentals of Electric and Thermal Power Tariff Policy for 1998-2000", dated the 27<sup>th</sup> April, 1998, No. 222.

<sup>121</sup> [http://www.energo-es.kg/projects/investment\\_projects/](http://www.energo-es.kg/projects/investment_projects/)

<sup>122</sup> The Law of the Kyrgyz Republic "On Special Status of Cascade of Toktogul Hydropower Stations and National High Voltage Power Lines" dated 21<sup>st</sup> January, 2002 (as last amended 23<sup>rd</sup> May, 2008).

<sup>123</sup> Governmental Resolution No. 536 of 24<sup>th</sup> July, 2006.

<sup>124</sup> Regulations on procedure for construction, commissioning and technical connection of small hydropower plants to electric networks approved by Governmental Resolution No. 476 of 28<sup>th</sup> July, 2009.

- Agreements for design and construction of small HPP shall be executed with the design and construction organizations jointly with the tender winner and enterprise owning the electric networks;
- The design and construction organizations must have licenses to perform design and construction works of the necessary level of complexity and responsibility.

In 2008, the Government of the Kyrgyz Republic issued a decision to re-launch the construction of Kambarata 2 hydropower station (360 MW).

In October 2009, the Jogorku Kenesh of the Kyrgyz Republic passed the law<sup>125</sup> lifting all bans on the circulation of shares and assets of Kambarata HPPs 1 and 2, which allows their pledging for attracting investments.

The first aggregate of Kambarata HPP 2 was commissioned in August 2010 using the own funds of the Kyrgyz Republic.

As part of the hydropower development program, it is planned to construct and commission the second aggregate of Kambarata HPP 2 with the volume of financing being USD 132 million.

Major hydropower investment projects are Kambarata -1 with the installed capacity of 1900 MW and the project cost of USD \$1.7 billion, and the construction of the Upper Naryn HPP cascade (Akbulun HPP, Naryn HPP-1, Naryn HPP-2, Naryn HPP-3), with the installed capacity of 191 MW and the total project cost of more than USD 400.0 million. These projects are launched under the Agreements on construction and operation of Kambarata-1 and Upper Naryn HPP cascade signed between the Government of the Russian Federation and the Government of the Kyrgyz Republic on September 20, 2012 in Bishkek. Under these Agreements, the construction and operation of hydropower plants will be effectuated by Kambarata-1 and Upper Naryn HPP being the joint ventures with equal percentage of shares held by the Russian and Kyrgyz sides.

Under the Intergovernmental Agreements, the funding for the both projects is provided by the Russian side; in particular, Inter RAO EES funds the construction of Kambarata-1 and RusHydro funds the Upper Naryn HPP cascade.

On October 27, 2012, the time capsule burial ceremony was held in Naryn region at the construction site of Upstream Naryn HPP Cascade in the presence of the President of the Kyrgyz Republic Almazbek Atambayev, CEO of RusHydro Yevgeny Dod.

On January 31, 2013, Upper Naryn HPP entered into contract with Lengidroproekt for completion of a feasibility study. On November 22, 2013, the Board of Directors of Upper Naryn HPP approved the feasibility study for construction of the Upper Naryn HPP cascade worth 727 million U.S. dollars.<sup>126</sup> Regarding the development of the feasibility study for Kambarata-1, it is being developed by a Canadian company SNC-Lavalin International Inc.

The European Bank for Reconstruction and Development has expressed interest in financing the construction of small and medium hydropower plants in the Kyrgyz Republic.<sup>127</sup>

The Asian Development Bank plans to allocate 44.8 million U.S. dollars to support the energy sector of Kyrgyzstan. These funds will be used to increase the capacity of the national electric grids of Kyrgyzstan, to purchase equipment to reduce commercial losses in the energy sector. The Agreement

<sup>125</sup> The Law of the Kyrgyz Republic "On Annulment of the Law on Construction and Operation of Kambarata Hydropower Plants 1 and 2" of 12<sup>th</sup> October, 2009.

<sup>126</sup> <http://www.energo-es.kg/?page=news&read=588>

<sup>127</sup> <http://ca-news.org/news/102641>

between the Asian Development Bank and the Kyrgyz Republic on the financing of the project on the development of the energy sector was signed on December 8, 2010 in Bishkek and ratified by Parliament in April 2011. The project implementation period is until June 2014. The agreement provides for the funding of U.S. \$44.8 million, including a loan of \$16.7 million and a grant of \$8.1 million.

The Ministry of Energy and Industry of the Kyrgyz Republic is working with Chinese company Sino Hydro on the construction of the Suusamyр - Kokomeren HPP cascade. The project envisages the construction of a cascade of three hydropower plants with the total capacity of 1,305 MW, and the construction period of 5-6 years. HPP will generate 3 billion 300 million kWh of electricity, which represents 10% of the available capacity of the country. The total project cost is about U.S. \$2 billion. In March 2013, Sino Hydro has prepared a preliminary feasibility study for the construction of the Suusamyр - Kokomeren HPP cascade and submitted it to the Ministry of Energy and Industry of the Kyrgyz Republic.

### **Construction of power lines and substations**

In November 2005, the Government of the United States and the Government of the Kyrgyz Republic signed a grant agreement to finance the preparation of a feasibility study<sup>128</sup>:

- for the construction of 33 km of 220 kV Uzlovaya-Alay high voltage power lines;
- for the connection of 1 km of 500 kV Toktogul hydropower plant-Lochin high voltage power lines to 500 kV Datka substation;
- for the construction of 500 kV Datka substation;
- for the connection of 81 km of 220 kV Kristal-Kurpsai hydropower plant high voltage power lines to 500 kV Datka substation;
- for the connection of 5 km of 220 kV Kurpsai hydropower plant –Oktyabr high voltage power lines to 500 kV Datka substation;
- for the construction of 90 km of 220 kV Kristal-Datka high voltage power lines;
- for the construction of 5 km of 220 kV Datka-Oktyabr high voltage power lines;
- for the construction of 220 kV Kurshab substation;
- for the construction of 46 km of 220 kV Datka-Kurshab high voltage power lines;
- for the construction of 108 km of 220 kV Kurshab-Uzlovaya high voltage power lines

To improve power transmission, new power lines, the capacity of Kurpsai hydropower plant, Shamaldy-Sai hydropower plant and Tash-Kumyr hydropower plant and substations, and to prevent overloads and high cost of power transmission.

On September 20, 2011 in Bishkek, Kyrgyz Republic, Islamic Republic of Pakistan and the Republic of Tajikistan signed a memorandum of understanding on the construction of electric power plants, transmission lines, networks between Central and South Asia to export 1,300 MW of electricity from the Kyrgyz Republic (Datka) and Tajikistan (Khujand) to Pakistan (Peshawar) through Afghanistan (Kabul) - CASA-1000 project<sup>129</sup>. The total length of the line is 750 kilometers. This will be a public-private partnership project supported by the World Bank, the International Finance Corporation, the Asian Development Bank and the Islamic Development Bank with a total estimated cost of about 865 million U.S. dollars. The grants of international financial institutions are used to conduct a feasibility study for the project.

<sup>128</sup> The Grant Agreement between the Government of the USA and the Government of the Kyrgyz Republic dated 22<sup>nd</sup> November, 2005, ratified by Edict UP № 65 of the President of the Kyrgyz Republic dated 13<sup>th</sup> February, 2006.

<sup>129</sup> <http://www.cawater-info.net/news/08-2008/10.htm>

The Kyrgyz Republic plans to do the following<sup>130</sup>:

- construct 110 kW Aigultash-Samat high voltage power lines;
- construct 500kW/220kW Datka substation and reconstruct 220 kW high voltage power lines;
- construct 500kW/220kW Kemin substation and 500 kW Datka-Kemin power lines<sup>131</sup>

to create conditions for capacity output of Kambarata HPPs 1 and 2 and to create its own 500 kW power lines network which will ensure safe power supply to Kyrgyz consumers when operated in parallel with the neighbouring grids of the region or in isolation.

In October 2006, the Government of the Kyrgyz Republic and an American company AES Silk Road, Inc. signed a memorandum of understanding regarding the construction of 500 kW high voltage power lines connecting grids of the Kyrgyz Republic and the Republic of Tajikistan and the grids of the Kyrgyz Republic and the Republic of Kazakhstan<sup>132</sup>.

In June 2007, the Government of the Kyrgyz Republic approved a draft agreement between the Kyrgyz Republic and the Islamic Development Bank to finance the project of the construction of the 110 kW Aigultash-Samat high voltage power lines and substation<sup>133</sup>. In March 2010, the work began on the construction of power lines and reconstruction of substation. The construction works are being carried out by GTMH Company, a subsidiary of a French company INEO of GDF Suez Group. This company was involved in the implementation of several projects in the Chui, Issykul, and Talas regions and in the construction of Alay-Aygultash-Samat power line which is planned to be commissioned in November 2011.

In January 2010, National Electric Network and Chinese company Tebian Electric Apparatus (TBEA) signed an agreement to construct the Datka Kemin transmission line with the length of 410 km and the capacity of 500 kV. On July 28, 2011, the time capsule burial ceremony was held at the construction site of the Datka substation of 500 kV near Akman village of Bazar-Kurgan district of Jalal-Abad region.

It is assumed that after the construction of the Datka Kemin and Aigul-Tash-Samat transmission lines Kyrgyzstan will become independent from other countries in terms of energy.

The project for the construction of the Datka substation is financed by the preferential loan and its cost decreased by USD 48 million amounting to USD 208 million. The preferential loan agreement between the Government of the Kyrgyz Republic and Export-Import Bank of the People's Republic of China to finance the project for the construction of the Datka-Kemin transmission line of 500 kV and Kemin substation of 500 kV was signed on June 5, 2012 in Beijing and ratified by the Law of the Kyrgyz Republic of June 19, 2012 № 86.

The project is aimed to construct a new substation, the Datka substation of 500 kV and an autotransformer of 501 megavolt ampere. The to be built lines of 220 kV will be 256.5 kilometers long, including: Crystal Datka doublecircuit line of 75 km, Datka Uzlovaya double-circuit high-voltage line of 123 km, Datka - October line of 10 km, Nodal - Alai line of 47 km.

In December 2009, the Kyrgyz Republic and the Republic of Tajikistan proposed to develop a unified policy on the construction of the Hodjent-Datka-Kemin-Almaty 500 kW power line and expressed interest in the construction of the Hodjent-Datka 500 kW power line for further supplies of electricity to third countries through the territories of the Kyrgyz Republic and Tajikistan within the framework of

<sup>130</sup> Order No. 82 of the Ministry of Industry, Energy and Fuel Resources of the Kyrgyz Republic dated 29<sup>th</sup> August, 2007

<sup>131</sup> National Grid of Kyrgyzstan OJSC: [www.energo.kg/o%20kampanii/perspektiva/perspektiva.htm](http://www.energo.kg/o%20kampanii/perspektiva/perspektiva.htm)

<sup>132</sup> Ordinance No. 610-r of the Government of the Kyrgyz Republic dated 31<sup>st</sup> October, 2006.

<sup>133</sup> Government Ordinance No. 161-r of 7<sup>th</sup> June, 2007.

CASA-1000 Project. The volume of project financing is USD 197.0 million of which USD 65.7 million will be drawn in 2012<sup>134</sup>.

In September 2009, the Kyrgyz Republic and the Republic of Kazakhstan discussed the possibility of joint planning and construction of the Kemin-Almaty 500 kW power line. In November 2010, the working groups of both countries exchanged benchmark data of the feasibility study for the construction of high voltage line. The total project value is USD 140 million of which USD 46.7 million will be drawn in 2012<sup>135</sup>.

### Electric Power Market and Setting Tariffs

To assure a functional system of commercial relations in the process of production, sale and purchase of electric power, the following rules of electric power market have been developed<sup>136</sup>:

Purchase and sale of electric power performed by producing and distributing organizations, importers, and major production users is based upon contracts of electric power purchase and sale, with the exception of purchase and sale performed at the balance market of electric power. Contracts of electric power purchase and sale are developed and approved by the Ministry of Energy of the Kyrgyz Republic.

Tariffs for electricity are established by the State department of regulation of fuel and energy complex under the Ministry of Energy and Industry of the Kyrgyz Republic with the consent of the Jogorku Kenesh of the Kyrgyz Republic according to the following principles:

- Prices must reflect the full cost of production, transmission and distribution of thermal or electric energy, including the cost of production and maintenance, compensation of capital costs, attraction of investments and interest rate on repayments;
- Non-discrimination in respect of setting tariffs for energy supply services and electricity, including their quality;
- All consumers of similar group with similar consumption characteristics served by one distribution enterprise must be entitled to equal tariffs and services.

According to the resolution of the Executive board of the State department of 'regulation of fuel and energy sector' of the Ministry of Energy and Industry of the Kyrgyz Republic of 21<sup>st</sup> April, 2010 No. 93 "On Tariffs for Electric Energy", tariff for electricity for all industrial consumers shall be 132.7 tyins per 1 kWh excluding taxes and for the general public - 70 tyins excluding taxes.

The fees for electricity produced from renewable energy sources are charged at special rates. In particular, during the project payback period, tariffs for electricity generated from renewable energy sources are determined by multiplying the maximum tariff for consumers by the appropriate factor. Coefficients applied to maximum electricity tariffs for end users during the payback period differ for each type of renewable energy source as follows:

- 2.1 for hydropower facilities;
- 6.0 for solar energy facilities;
- 2.75 for biomass energy facilities;
- 2.5 for wind power facilities;
- 3.35 for earth energy facilities<sup>137</sup>.

134 Governmental Resolution No. 553 of 13<sup>th</sup> September, 2011 "On Forecast of Socioeconomic Development of the Kyrgyz Republic for 2012 and forecast for 2013-2014".

135 Governmental Resolution No. 553 of 13<sup>th</sup> September, 2011 "On Forecast of Socioeconomic Development of the Kyrgyz Republic for 2012 and forecast for 2013-2014".

136 Resolution No. 187 of the Government of the Kyrgyz Republic dated 6<sup>th</sup> April, 2000

137 Article 12 of the Law of the Kyrgyz Republic "On Renewable Energy" dated 31 December 2008 № 283 (revised articles on October 10, 2012).

## Renewable energy sources

In 2008, the Law of the Kyrgyz Republic “On Renewable Energy Sources” was adopted<sup>138</sup>. The purpose of the law is to provide legal basis for the development and use of renewable energy sources, improvement of energy structure; diversification of energy resources, improvement of social welfare, energy safety of the republic, environmental protection and sustainable economic development. According to the mentioned law:

- The regulated activities include the production, consumption and sale of heat, power and fuel using renewable energy sources as well as the production and supply of equipment and technologies in the area of renewable energy sources;
- State regulation in the area of renewable energy sources is carried out by the Government of the Kyrgyz Republic and competent authorities; one of regulation methods is setting tariffs for energy generated in the framework of the projects involving the renewable energy with the pay-back period of up to 8 years;
- Construction, purchase and operation of installations using renewable energy sources may be carried out by any legal or physical person subject to the requirements of laws and technical rules effective in the Kyrgyz Republic;
- Financing of scientific and technical researches aimed to develop and use renewable energy sources is provided from state budget funds;
- Certain preferences are granted to the producers of power and heat generated by using renewable energy sources and to the consumers of such energy;
- Tariffs for energy generated by using renewable energy sources and purchased by energy companies are established with the account of compensation of costs of energy companies purchasing it and the amount of compensation is included in the national power tariff established by energy companies;
- Import and export of equipment, installations and spare parts used to produce energy using renewable energy sources are exempt from customs fees;
- licenses to engage in renewable energy business (generation, transmission, distribution, sale of electricity) are abolished;
- all electricity generated from renewable energy sources but not consumed by the owner of the facility for their own needs and not sold to other customers on a contractual basis must be purchased by the largest electricity distribution company in the administrative-territorial unit where this facility is located, no matter to which networks it is connected.<sup>139</sup>

## Privatization of Energy Facilities

In 2008 - 2012, the Government of the Kyrgyz Republic made a decision to carry out privatization of the following<sup>140</sup>:

- 80.49% share in Severelectro OJSC engaged in the distribution and sale of electricity in Chui and Talas regions, and Bishkek city; State shareholdings in other regional distribution companies: Vostokelectro OJSC supplying electricity to Issykul and Naryn regions, Oshelectro OJSC supplying electricity to Osh and Batken regions, and Jalalabatelectro supplying electricity to Jalalabat region;
- Institutions subordinate to the Ministry of Energy and Industry of the Kyrgyz Republic including Kyrgyz Energy R&D Centre “Energys” and Kyrgyz Engineering & Research Institute “Energoproject”;

<sup>138</sup> The Law of the Kyrgyz Republic “On Renewable Energy Sources” dated December 31, 2008, No.283 (as last amended on 10<sup>th</sup> October, 2012).

<sup>139</sup> Under the Law of the Kyrgyz Republic “On Renewable Energy Sources” dated 31<sup>st</sup> December, 2008, No. 283 the energy companies which fail to observe this requirement shall reimburse renewable energy companies for lost profit.

<sup>140</sup> Resolution No. 84 of the Government of the Kyrgyz Republic dated 14<sup>th</sup> March, 2008, State Property Privatization Program for 2008-2012 approved by Government Resolution No. 518 of 17<sup>th</sup> September, 2008 (as last amended 29<sup>th</sup> July, 2011).

- Property complex of CHPP 1 of Bishkek City (subdivision of Elektricheskii Stantsii OJSC), producing heat and hot water in Bishkek City;
- 80.49% share in Bishkekteploset OJSC engaged in transportation and sale of heat and hot water in Bishkek City;

In 2008, the Government of the Kyrgyz Republic considered 3 forms of privatization:

- Transfer in trust of 80.49% share in Severelectro OJSC and Bishkekteploset OJSC (without title transfer to the trustee) on a competitive basis for a term of 5 years;
- Transfer of 80.49% share in Severelectro OJSC and Bishkekteploset OJSC, property complex of CHPP 1 of Bishkek City to investor as concession for a term of 5 to 50 years;
- Sale of 80.49% share in Severelectro OJSC and Bishkekteploset OJSC, property complex of CHPP 1 of Bishkek City.

It should be noted that as of December 2013, all of the above Kyrgyz energy companies remain un-privatized.

## 19.2 Mineral resources

There are various mineral deposits identified and explored in the Kyrgyz Republic. The country has great potential for many minerals such as gold, mercury, antimony, rare earths, tin, tungsten, coal, non-metallic materials, underground water. There are prospects for the production of iron, titanium, vanadium, aluminum, copper, molybdenum, and beryllium. Industrial significance of tantalum niobate, cobalt, zirconium, lithium, gemstones<sup>141</sup> is also high.

### State Regulation

The state regulation of mining activities is performed by the Ministry of Economy of the Kyrgyz Republic and the State Agency for Geology and Mineral Resources under the Government of the Kyrgyz Republic.

The Ministry of Economy of the Kyrgyz Republic is responsible for developing public policy on the management of Kyrgyz mineral resources and forecasting the development of the mining industry<sup>142</sup>.

The State Agency for Geology and Mineral Resources under the Government of the Kyrgyz Republic is the legal successor to the Ministry of Natural Resources of the Kyrgyz Republic<sup>143</sup> and is the authorized public agency in the area of mineral rights and mining industry development. The said agency is responsible for implementing public policy on development and use of mineral resources, suspending and cancelling mineral licenses, protecting mineral resources and other functions related to mineral rights<sup>144</sup>.

The issues related to the state supervision and control over environmental, industrial and technical safety are handled by the State Inspectorate Office for Environmental and Technical Safety under the Government of the Kyrgyz Republic. The functions of this agency also include state supervision and control over compliance with environmental and industrial safety standards applicable to the mining

<sup>141</sup> <http://www.geology.kg/mestorozhdeniya.html>

<sup>142</sup> Government Resolution No. 762 of 30<sup>th</sup> December, 2011, Government Resolution No. 12 of 12<sup>th</sup> January, 2012.

<sup>143</sup> Government Resolution No. 762 of 30<sup>th</sup> December, 2011.

<sup>144</sup> The Regulation on the State Agency for Geology and Mineral Resources under the Government of the Kyrgyz Republic approved by Resolution No. 127 of the Government of the Kyrgyz Republic dated 20<sup>th</sup> February 2012.

industry.<sup>145</sup> The state environmental audit is performed by the State Agency for Environmental Protection and Forestry under the Government of the Kyrgyz Republic.<sup>146</sup>

Apart from the above state bodies, the local state administration and local self-government bodies are endowed with a number of mineral resources functions and powers. They include allocation of land allotments and temporary land use rights, ensuring free access for licensees to license areas, participation in work of a tender or auction commissions, arrangement of public environmental expert appraisal of mining projects, working with local communities to prevent illegal interference in the activities of mineral right holders.

Besides, the local state administrations are empowered to register and regulate individual artisan miners.

### Types of Mineral Rights

The right to use subsoil arises under the license, the concession agreement, the production sharing agreement and the state registration.

### License

In most cases; mineral rights are provided under a license. The State Agency for Geology and Mineral Resources issues licenses subject to the procedure and on conditions set forth in the Law of the Kyrgyz Republic “On Mineral Resources”,<sup>147</sup> adopted in accordance with its laws on specific mineral resources, such as coal, oil, and gas,<sup>148</sup> and Regulations on the Procedure for Mineral Rights Licensing.<sup>149</sup>

The Law of the Kyrgyz Republic “On Mineral Resources” provides for types of mineral rights and procedure for license issuance, rights and responsibilities of mineral right holders, powers of public authorities, types of tax payments for mineral rights, and other issues.

A license may be issued to an individual or legal entity of the Kyrgyz Republic or another country by tenders, auctions or direct negotiations. The number of mineral licenses issued to a miner is not limited. Tenders are conducted for the nationally significant deposits. Auctions are held for deposits, occurrences, prospective areas, the list of which is established by the State Agency for Geology and Mineral Resources; for the rest, licenses are awarded by holding direct negotiations, including by declaring two auctions invalid.<sup>150</sup>

There are following types of mineral licenses:

- Prospecting licenses
- Exploration licenses
- Mining licenses
- Licenses unrelated to exploration or mining of mineral resources

<sup>145</sup> The Regulation on the State Inspection Office for Environmental and Technical Safety of the Kyrgyz Republic, approved by Government Resolution of 20.02.2012, N 136.

<sup>146</sup> The Regulation on the State Agency for Environmental Protection and Forestry under the Government of the Kyrgyz Republic, approved by Government Resolution of 20.02.2012, N 123.

<sup>147</sup> The Law of the Kyrgyz Republic “On Mineral Resources” dated 9<sup>th</sup> August 2012.

<sup>148</sup> The Law of the Kyrgyz Republic “On Coal” dated 3<sup>rd</sup> February 1999 (with the latest amendments as of 18<sup>th</sup> June, 2005), Law of the Kyrgyz Republic “On Oil and Gas” dated 8<sup>th</sup> June 1998 (with the latest amendments as of 29<sup>th</sup> May, 2009).

<sup>149</sup> The Regulation on the procedure of mineral rights licensing approved by Resolution No. 228 of the Government of the Kyrgyz Republic dated 4<sup>th</sup> April, 2012 (as last amended 18<sup>th</sup> June, 2012).

<sup>150</sup> Article 23 of the Law of the Kyrgyz Republic “On Mineral Resources” dated 9<sup>th</sup> August 2012.

**A prospecting license** gives its holder an exclusive right to carry out geological prospecting for certain mineral resources within the boundaries of the license area for up to 5 years. Upon expiration of the license term the licensee is entitled to its extension as provided by an engineering design. The licensee has an exclusive right to transformation of the held license into an exploration license in respect of an occurrence or deposit.

The maximum size of the license area for geological prospecting is not limited.<sup>151</sup>

**An exploration license** gives its holder the prerogative right to carry out geological exploration for certain mineral resources within the limits of the license area for up to 10 years. Upon expiration of the license term the licensee is entitled to its extension as provided by an engineering design. The licensee has an exclusive right to transformation of the held license into a mining license for an explored mineral deposit.<sup>152</sup>

**The holder of a mining license** has the prerogative right to carry out geological exploration and mining of mineral resources within the limits of the mining area including the right to perform all necessary preparatory works for the processing of mineral resources, including the refinement and metallurgy, use of industrial formations and waste as well as sale and export of mineral resources and their products. The mining license is valid for the period of up to 20 years and may be extended till depletion of the mineral resources.

**A License** unrelated to geological exploration and mining of mineral deposits is awarded for the purposes of the underground storage facilities for oil, gas, and radioactive substances, underground warehouses, structures and other facilities. The period of validity of the license is stated in an engineering design which can be extended for the same period as provided by an adjusted engineering design.

## Concession

Mineral rights may be granted on the basis of a concession. Procedure and conditions on which a concession is granted and a concession agreement is concluded are provided by the Law “On Concessions and Concession Enterprises in the Kyrgyz Republic”<sup>153</sup>, the Civil Code, and the Law of the Kyrgyz Republic “On Investments in the Kyrgyz Republic”.<sup>154</sup>

A concession is granted on a tender basis. A list of objects offered for concession, as well as the tender procedure, shall be prepared by authorized agencies within the scope of their respective powers and approved by the Government of the Kyrgyz Republic.

A concession agreement is concluded between the Government of the Kyrgyz Republic or another authorized or specially established body, and the concessionary. A foreign national, an individual, a legal entity, or a joint venture registered subject to legislation of the Kyrgyz Republic, may act as a concessionary. A concession agreement may be concluded for a term of 5 to 50 years and may be prolonged with consent of the parties. The agreement must contain provisions on its parties, concession asset, types, conditions, amounts and procedures of payments, minimal capital investment

<sup>151</sup> Article 33.2 of the Law of the Kyrgyz Republic “On Mineral Resources ” dated 9<sup>th</sup> August 2012.

<sup>152</sup> Article 34 of the Law of the Kyrgyz Republic “On Mineral Resources ” dated 9<sup>th</sup> August 2012.

<sup>153</sup> The Law of the Kyrgyz Republic “On Concessions and Concession Enterprises in the Kyrgyz Republic” dated 6<sup>th</sup> March, 1992 (with the latest amendments as of 17<sup>th</sup> October, 2008).

<sup>154</sup> The Law of the Kyrgyz Republic “On Foreign Investments in the Republic of Kyrgyzstan” dated 28<sup>th</sup> June, 1991 (the Law was repealed according to the Law No. 66 of the Kyrgyz Republic of 24<sup>th</sup> September, 1997, with the exception of Part 1, Article 20, and Article 23) and Law of the Kyrgyz Republic “On Investments in the Kyrgyz Republic” dated 27<sup>th</sup> March, 2003 (with the latest amendments as of 22<sup>nd</sup> October, 2009).

amounts, quotas on volume of production, environment protection provisions, legal facts occurrence of which may entail amendment of the Agreement provisions upon demand of its party, terms of the Agreement, and other provisions as set forth in the Law of the Kyrgyz Republic “On Concessions and Concession Enterprises in the Kyrgyz Republic”.

According to the Law of the Kyrgyz Republic “On Concessions and Concession Enterprises in the Kyrgyz Republic”, all guarantees provided by investment legislation apply to a concessionary, while disputes between a concessionary and concession authorities are subject to settlement by courts of the Kyrgyz Republic or, with consent of the parties, by international arbitration.

### **Production Sharing Agreement<sup>155</sup>**

According to the Law of the Kyrgyz Republic “On Mineral Production Sharing Agreements”<sup>156</sup>, the Kyrgyz Republic, based on a production sharing agreement, may for a fee provide to an investor using mineral resources the prerogative right to search, explore and mine mineral resource deposits and perform related works within an established time, while the investor using mineral resources, in their turn, must undertake performance of these works at their own expense and their own risk. The respective agreement shall contain all necessary conditions related to mineral rights, including those on processing of raw minerals, procedures and conditions of production sharing between the parties in accordance with the Law of the Kyrgyz Republic “On Mineral Production Sharing Agreements”.

The Government of the Kyrgyz Republic or an agency authorized by it concludes the agreement on behalf of the Kyrgyz Republic. An investor using mineral resources may be a Kyrgyz or foreign individual or legal entity. The Law provides that an investor having no status of a legal entity and represented by an association of legal entities may also act as an agreement party<sup>157</sup>. Agreements to which a foreign individual or legal entity is a party are subject to ratification by the Jogorku Kenesh of the Kyrgyz Republic.

A production sharing agreement is concluded on the basis of tender or auction results. In individual cases upon the decision of the Government of the Kyrgyz Republic an agreement may be concluded in the absence of a tender or auction. Tenders and auctions are held by the public agency authorized by the Government of the Kyrgyz Republic subject to the procedures established by the Government of the Kyrgyz Republic.

Based on a signed production sharing agreement, a mineral license is issued to the mineral right holder to prove their right to use the respective portion of mineral resources. The license is valid for an identified period of time, may be extended or re-issued, or may lose effect subject to the agreement provisions. The agreement is concluded for a fixed term with the consent of the parties; the period of validity may not exceed 10 years, but may be extended for a period sufficient for completion of economically feasible development of the deposit in cases provided by law.

Conditions of the agreement remain in force for the agreement duration. An agreement may be amended with consent of the parties or upon the demand of a party in cases where material change of circumstances has taken place as provided by the Civil Code of the Kyrgyz Republic. If within duration of an agreement ratified by the Jogorku Kenesh of the Kyrgyz Republic amendments that aggravate the investor’s position under the agreement are introduced into legislation of the Kyrgyz Republic, the investor may further apply the agreement provisions as set forth prior to the amend-

<sup>155</sup> To make the effective legislation consistent with the Law on Subsoil, the Ministry of Economy has developed the draft Law on Production Sharing Agreements

<sup>156</sup> The Law of the Kyrgyz Republic “On Mineral Production Sharing Agreements” dated 10<sup>th</sup> April, 2002.

<sup>157</sup> Article 4 of the Law of the Kyrgyz Republic: “On Mineral Production Sharing Agreements”.

ments, with the exception of changes to requirements of work safety, subsoil protection, environment protection, and protection of public health.

Disputes between an investor and the state shall be settled subject to the agreement provisions by judicial procedure. Agreements with foreign individuals and legal entities may provide for the Kyrgyz Republic's waiver of judicial immunity, immunity from provisional measures and execution of judgment.

### State Registration

State registration is required for scientific mineral researches conducted according to the approved program and for individual artisan mining. State registration of scientific mineral research is performed by the State Agency for Geology and Mineral Resources. The term established for the accomplishment of scientific research programs is the same as the term of validity of the mineral rights awarded under the state registration.

State registration of individual artisan mining is performed by local state administrations. The alluvial mineralized areas can be developed by individual artisan mining.<sup>158</sup> The procedure for organizing individual artisanal mining is determined by the Regulation approved by the Government.

### Mining Taxes and Mandatory Fees

As a rule, the mining industry in the Kyrgyz Republic is subject to general tax regime implying the following taxes and reporting requirements for local and foreign companies operating in the Kyrgyz Republic through their permanent establishments:

- profit tax (10%);
- income tax (10%);
- VAT (general rate of 12%, for certain operations 0% or 20%);
- excise tax (varies depending on the type of excisable goods, their price or physical volume);
- sales tax (from 1% to 3%);
- income tax applicable to taxpayers engaged in extraction and sale of gold-containing ore, gold-containing concentrate, gold allow, and refined gold (from 1% to 20% depending on world prices per one troy ounce).

Kyrgyz law requires mineral right holders to pay taxes, charges and fees such as the license retention fee, local infrastructure development and maintenance fee.<sup>159</sup>

### Prospects for Development

In 2014, it is planned to launch enterprises at the following gold deposits: Bozymchak (Ala-Buka district, Jalal-Abad region),<sup>160</sup> Kumbel (Naryn district of Naryn region), Nasonovskoe (Panfilov district, Chui region), Taldybulak Levoberezhny,<sup>161</sup> and to expand gold production by launching Southwest and Sary-Tor sections of Kumtor deposit.

<sup>158</sup> Article 39 of the Law on Mineral Resources of August 9, 2012.

<sup>159</sup> Articles 19-2 and 19-3 of the Law of the Kyrgyz Republic "On non-tax payments" of April 14, 1994 N 1480-XII (as amended by the Law of August 9, 2012 N 162; Law of July 17, 2013 N 149 ).

<sup>160</sup> <http://bit.ly/1cSTCOE>

<sup>161</sup> <http://www.geology.kg/node/1>

Starting from February 2014, the State Agency for Geology and Mineral Resources will hold auctions for 4 gold and coal deposits<sup>162</sup>, Sary-Tash limestone deposit<sup>163</sup> which will be organized and conducted in accordance with the requirements of the new Law on Mineral Resources of 2012. During the period from 2014 to 2017, it is planned to launch a number of gold deposits, etc.<sup>164</sup>

### Current legislative reforms

The Kyrgyz Republic strives to create a favourable investment climate for all mineral right holders which is the goal of the newly enacted Law on Mineral Resources. As part of the efforts to improve the investment climate, a number of regulatory acts have been drafted to optimize the legal framework for mineral resources and to ensure the introduction of appropriate implementation mechanisms for the new law on mineral resources.

The Ministry of Economy and Antimonopoly Policy has developed a medium- and long-term development strategy for the mining industry and the Action Plan for its implementation. The main aim of this strategy is to achieve sustainable development of the mining industry with the maximum use of the mineral potential. It is planned to approve the medium- and long-term development strategy and the action plan for its implementation in January 2014.<sup>165</sup>

## 19.3 Telecommunications

### State Regulation

The Ministry of Transport and Communications of the Kyrgyz Republic is responsible for development of the public policy in the area of communications<sup>166</sup>.

The Kyrgyz State Commission for radio frequencies as an interdepartmental collegiate body coordinates activities of public agencies in the area of use of radio frequency range<sup>167</sup>. The state commission for radio frequencies is vested with the functions of adopting strategic recommendations in respect of using radio frequencies, long-term development of networks and communication systems, and conversion (release) of radio frequency range in the Kyrgyz Republic.

Besides, the National Agency for Communications under the Government of the Kyrgyz Republic regulates communications industry and has, among others, the following powers: issuance of licenses and permits to import and operate radio electronic equipment and high frequency devices, certification and recognition of certificates of telecommunication equipment, supervision of compliance with legislation and license conditions and requirements, approval of tariffs for services of monopolist operators, and assurance of proper operation of the communications industry<sup>168</sup>.

<sup>162</sup> <http://bit.ly/JsSljF>

<sup>163</sup> <http://www.24kg.org/economics/166340-gosgeologiya-namerena-provesti-aukcion-na.html>

<sup>164</sup> Resolution of the Government of the Kyrgyz Republic "On approval of the draft program of the Kyrgyz Republic for the transition to sustainable development for 2013-2017 years" from April 30, 2013 N 218; implementation plan for the transition of the Kyrgyz Republic to Sustainable Development for 2013-2017 ([http://www.gov.kg/?page\\_id=23888](http://www.gov.kg/?page_id=23888)).

<sup>165</sup> <http://www.24.kg/economics/166340-gosgeologiya-namerena-provesti-aukcion-na.html>

<sup>166</sup> Law of the Kyrgyz Republic "On Electric and Postal Communications" dated 2<sup>nd</sup> April, 1998 (with the latest amendments as of 11th July 2013). Jogorku Kenesh Resolution No. 2265-V of 5th September 2012 : "On Structure of Government of Kyrgyz Republic".

<sup>167</sup> "Regulations on State Commission on radio frequencies approved by Presidential Edict No. 131"; of 24<sup>th</sup> February, 2009.

<sup>168</sup> "Regulations on State Commission on radio frequencies approved by Presidential Edict No. 124"; of 20<sup>th</sup> February, 2012.

### Licensable Activities

The following activities in the field of telecommunications are business activities subject to licensing:<sup>169</sup>

- Mobile (wireless) radio communication services (GSM, TDMA/D-AMPS, IMT-MC, CDMA, WCDMA\UMTC, LTE and other);
- Stationary communication services (local and long-distance, including international);
- Telematic services (telephoto, message processing, EMS, conference calls, information services, voice dial);
- Transmission of data by using radio frequency spectre or cable devices (Internet, SMS, WAP, GPRS, EDGE, VoIP, VPN, Wi-Fi and Wi-Max Internet access);
- Use of radio frequency range for providing electrical communication and(or) data communication services;

Communication services not subject to licensing are organization and/or use of closed network, internal communication networks:

- communication networks located within the same building or in adjacent buildings and
- communication networks having service points located within the distance smaller than established by the State Agency for Communication.

It must be noted that by decision of the State Radio Frequencies Commission, frequencies in the range 2404 to 2483.5 MHz are provided for Wi-Fi systems throughout the territory of the Kyrgyz Republic without use of outside antennas and without licensing, with the exception of the city of Bishkek and its suburbs.

### Licensing

In order to obtain or renew a license, an applicant needs to file with the State Agency for Communications an application with a set of requisite documents<sup>170</sup>.

The license is issued on the basis of the decision of the Licensing Committee of the State Agency for Communications<sup>171</sup> after preliminary review by its structural units.

The decision whether to issue or refuse the license (or renew or suspend or revoke the license) must be issued within not later than 30 calendar days from the date of filing the application and all requisite documents, except licenses to use radio frequency spectrum requiring international coordination with neighbouring countries.

If within the indicated period of time the State Agency for Communications fails to notify the applicant in writing of refusal to issue a license, the license is considered to have been issued. If the applicant receives no written refusal to issue a license or no license within the specified period of time, they may give a written notice to the State Agency for Communications that they started the activity applied for.

The license to use radio frequency spectrum to provide electrical communication and (or) data communication services is issued for a limited period of time. All other licenses to provide electrical communications services are issued for the unlimited period of validity.

<sup>169</sup> Points 11 and 13 of Article 15 of the Law of the Kyrgyz Republic "On licenses and permits system in the Kyrgyz Republic", № 195, dated as of 19<sup>th</sup> October, 2013.

<sup>170</sup> Chapter 36 of the Regulation on Licensing of Certain Activities (as last amended 1<sup>st</sup> July, 2013) approved by Resolution No. 260 of the Government of the Kyrgyz Republic dated 31<sup>st</sup> May, 2001 (with the latest amendments as of 1<sup>st</sup> July, 2013).

<sup>171</sup> Regulations on Licensing Committee and procedure for issuance of licenses by the State Agency for Communications under the Government approved by Agency Director's Order No. 84-pr of 21<sup>st</sup> June, 2010.

The license states the area covered by it: one administrative-territorial unit or the entire territory of the Kyrgyz Republic.

### License fee

The state license processing fee is 300 KGS (about 6.45 US dollars as of April 2012).

There is a license fee for issuance, re-issuance of the license and issuance of the duplicate copy of the license, which amount was not specified as of December 2013.

Other fees are not charged from the applicants and licensees.

### Permits and consents

In addition to a license, for activities in the area of electric communications the following permits and approvals are required.

- Permits for import of radio electronic means and high frequency devices, other technical means emitting radio frequency radiation or being sources of high frequency electromagnetic waves;<sup>172</sup>
- Allocation/assignment of numeration (range of numbers, intercity and international codes);
- Allocation/assignment of denominations, radio frequency waves;
- Frequency assignment;<sup>173</sup>
- Certificates of compliance for communications equipment and communications facilities.

### Permit for Import of Devices

Radio electronic devices, high frequency devices, and other technical devices producing radio frequency radiation or electromagnetic waves may be imported into the territory of the Kyrgyz Republic under the permit for import issued by the National Agency<sup>174</sup>.

However, according to the decision of the State Commission for Radio Frequencies an import permit is required for radio electronic means and high frequency devices functioning in the frequency range from 3 kHz to 3000 GHz, regardless of its power and purpose<sup>175</sup>.

Generally, the procedure for issuance of import authorization by the State Agency for Communication takes 1 to 2 days, and the authorization is valid for 1 month.

### Certification and registration of devices

According to the principal legislation on telecommunications, the following are subject to mandatory certification<sup>176</sup>:

- any technical equipment producing radio frequency radiation or
- high frequency electromagnetic waves

<sup>172</sup> Point 30 of Article 17 of the Law of the Kyrgyz Republic "On licenses and permits system in the Kyrgyz Republic".

<sup>173</sup> Point 31 of Article 17 of the Law of the Kyrgyz Republic "On licenses and permits system in the Kyrgyz Republic".

<sup>174</sup> Article 22 of the Law of the Kyrgyz Republic: "On Electric and Postal Communication".

<sup>175</sup> Point 3 of the Regulation on procedure for development, production, designing, construction (installation), purchase (sale), operation in the Kyrgyz Republic and import from foreign countries of radio electronic means and high frequency devices, approved by decision of the State Commission for Radio Frequencies of the Kyrgyz Republic dated 21<sup>st</sup> October, 1997 (Minutes No. 2).

<sup>176</sup> Article 9 of the Law of the Kyrgyz Republic: "On Electric and Postal Communication".

However, the Kyrgyz Government approved a conclusive list of communications equipment subject to mandatory certification<sup>177</sup>.

The State Agency for Communication carries out:

- Mandatory certification of communication devices to assure their compliance with the safety norms and electromagnetic compatibility requirements
- Voluntary certification to prove conformity of the communication means to established technical parameters

Procedure of certification, including relevant testing, takes about 15 days. Procedure of recognition of a certificate issued by a foreign country takes about 5 days. A conformity certificate issued by the State Agency for Communication is valid for 1 year.

All diplomatic and consular missions of foreign states and representative offices of international organizations operating in the territory of the Kyrgyz Republic are allowed to use without registration radio transmission devices, regardless of their radiation power, and high frequency devices with generators of not more than 0.005 kW; and household satellite television sets and high frequency devices with generators under 0.005 kW having no open radiation system<sup>178</sup>.

The Government of the Kyrgyz Republic develops a list of products subject to mandatory certification by the public authority in charge of veterinary safety, plant quarantine, epidemiological, sanitation, and environmental supervision. The list of products subject to sanitary and epidemiological examination does not include telecommunication equipment<sup>179</sup>.

However, subject to the existing legislation of the Kyrgyz Republic<sup>180</sup>, the Department of Disease Prevention and State Sanitary and Epidemiological Surveillance of the Ministry of Health of the Kyrgyz Republic issues sanitation and epidemiological certificates for telecommunication equipment required for placing and operating such equipment and its spare parts, in particular, mobile radio communication means (base stations of mobile radio communication, subscriber terminals of satellite communication), operating in 27-2400 MHz frequency range<sup>181</sup>.

A sanitation and epidemiological review takes 15 to 30 days. A sanitation and epidemiological certificate is valid for 1 year.

### **Use of radio frequency range**

To provide services of electrical communications using radio frequency range (for example, cellular communications services, wireless Internet services, TV and radio broadcasting services, security alarm services, etc.) it is necessary that the State Agency for Communications assign radio frequency range denominations and waves and issue a permit for the use of the radio frequency range (fre-

<sup>177</sup> Resolution No. 639 of the Government of the Kyrgyz Republic dated 30<sup>th</sup> December, 2005 (as last amended 6<sup>th</sup> March, 2013).

<sup>178</sup> The Instruction on procedure for issuance of permits for purchase, operation and import of radio electronic means and high frequency devices by diplomatic and consulate missions of foreign states and representative offices of international organizations in the Kyrgyz Republic approved by order No. 2/3 of the State Commission for Radio Frequencies of the Kyrgyz Republic dated 2<sup>nd</sup> June, 1998.

<sup>179</sup> Resolution No. 74 of the Government of the Kyrgyz Republic dated 6<sup>th</sup> June 2003 (with the latest amendments as of 12<sup>th</sup> March, 2007).

<sup>180</sup> The Regulation on procedure for carrying out sanitary and epidemiology examination of the products as to their safety for human health approved by resolution No. 329 of the Government of the Kyrgyz Republic dated 6<sup>th</sup> June, 2003 (as last amended 3<sup>rd</sup> July, 2013).

<sup>181</sup> Sanitary and epidemiology rules and standards "Hygienic requirements to placement and exploitation of terrestrial movable radio communication means", approved by Resolution No. 10 of the Head State Sanitary Doctor of the Kyrgyz Republic dated 20<sup>th</sup> February, 2004.

quency assignment) in accordance with the National table of allocation of radio frequencies among radio services of the Kyrgyz Republic<sup>182</sup>.

Frequency assignment is issued by decision of the Radio Frequency Resources Commission after completion of the analysis of electromagnetic compatibility and interdepartmental coordination. The decision to issue or refuse the frequency assignment (or revoke, suspend, renew, reallocate, or prolong the earlier issued frequency assignment) must be issued within 30 calendar days after the date of submitting the application and all necessary documents<sup>183</sup>. Where it is necessary to do interdepartmental coordination, radio monitoring and inclusion of frequency assignment into international registry of radio frequencies the time for review and issuance of the decision is up to 6 months.

Frequency assignment is valid for 2 years. If there is a communication license in place, the frequency assignment is issued for the effective term of the license.

The State Agency for Communications of the Kyrgyz Republic plans to post the table of free radio frequency waves on its official page in the Internet<sup>184</sup>.

### **Use of numeration resource**

The State Agency for Communications allocates numbers, ranges of numbers, intercity and international codes to operators according to the System and Plan of Numeration of communication networks of the Kyrgyz Republic.

### **Fees, charges, duties and payments**

Permits for import of equipment and private acquisition are issued for a fee which amount was not specified as of December 2013.

At the same time, the issue of the State Communication Agency's ability to charge the following fees from the applicants and licensees remains unsettled:

- An annual fee for the development of electrical communications sector (previously the fee for exercising licensing supervisor functions) in the amount of 1% of the licensee's profit received from the licensable activity;
- An annual fee for the maintenance, improvement and development of the state system for radio monitoring and identifying mobile communication devices (also named as a fee for exercising supervisory functions over the use of the radio frequency spectrum);
- A fee charged to cover the costs of issuing compliance certificates and developing standards.

Also, the issue of charging a fee for using the numeration resources by the State Agency for Communications remains unsettled.

<sup>182</sup> Regulations on allocation of radio frequency denominations for radio electronic means and high frequency devices approved by decision of the State Radio Frequency Commission of the Kyrgyz Republic of 21<sup>st</sup> October, 1997 (Minutes No. 2)

<sup>183</sup> Regulations on the procedures for applying and registration in the International Union of Electric Communication of radio frequency assignments to radio electronic means in the Kyrgyz Republic approved by resolution of State Radio Frequency Commission of the Kyrgyz Republic of 16<sup>th</sup> December, 1998 No. 4/1.

<sup>184</sup> [http://nas.kg/index.php?option=com\\_content&view=article&id=58&Itemid=153&lang=en](http://nas.kg/index.php?option=com_content&view=article&id=58&Itemid=153&lang=en).

### Prospects for Development

There are 46 operators licensed to provide telecom services, 20 operators licensed to provide international and national long distance communication services, and 21 operators licensed to provide IP technologies-based services<sup>185</sup>. However, to date, there are 122 settlements in the country where no fixed-line telephone services are provided.

The growth of volume of telecom services is attributable to the growing number of users of mobile phone services and the Internet services.

The number of the mobile phone services customers increased by 13.4% compared to 2011 and the total number of mobile phone services customers is 13.9 times higher than the number of fixed line telecom services customers.<sup>186</sup> The number of mobile communications services customers accounts for 122.4% of the entire population of the country, while the area of mobile services increased by 13.9 times compared to the number of fixed line telecom services customers.<sup>187</sup> Meanwhile, mobile phone services are not available in 342 villages that are located in out-of-the-way places of the country.<sup>188</sup>

At present, there are 8 companies which provide mobile telecom services in the country holding service licenses, of which 5 operate<sup>189</sup> and 2 of the operating providers launched networks of 3G UMTS/WCDMA standard.

The total number of the Internet users reached 50.8% of the whole population of the country.<sup>190</sup> At the moment, 63 operators provide data transmission services.<sup>191</sup>

The Government of the Kyrgyz Republic anticipates that the development of this sector will be aimed at the creation of a high-tech telecommunication system which will provide a wide range of services and will contribute to the integration of the country into the global information environment. Mobile telecommunication will remain a leader of the sector by the rates of the growth. The growth of the provided telecommunication services is estimated to reach 108.8%.

In 2014, the total amount of the Internet users will make up to 70-80% of the country's population. The efforts to carry out the projects for construction of mainstream fiber-optic telecommunication lines will continue. There are plans to ensure digital broadcasting services to 90% of the country's population by the end of 2014. The processes of replacement of the old equipment and construction of the new aerial-mast facilities, digital automatic television forwarders, as well as processes of modernization and development of post-office networks will continue.<sup>192</sup>

Development policy prioritizes as before the efforts on the construction of a modern high-tech and competitive national data transmission network (i.e. to develop telecom infrastructure and to construct main communication lines) to ensure guaranteed and equal public access to all regions of the

185 Page 40 of the Report of the State Agency for Communications under the Government of the Kyrgyz Republic for 2012. General information on telecommunications sphere on the official website of the Ministry of transport and communications of the Kyrgyz Republic. <http://mtc.gov.kg>

186 Page 35 of the Report of the State Agency for Communications for 2012.

187 Pages 35 and 41 of the Report of the State Agency for Communications for 2012.

188 General information on communications industry on the official website of the Ministry of Transport and Communications of the Kyrgyz Republic <http://mtc.gov.kg>.

189 General information on the telecommunications sector on the official website of the Ministry of Transport and Communications of the Kyrgyz Republic. <http://mtc.gov.kg>.

190 Page 41 of the Report of the State Agency for Communications under the Government of the Kyrgyz Republic for 2012

191 General information on the telecommunications sector on the official website of the Ministry of Transport and Communications of the Kyrgyz Republic. <http://mtc.gov.kg>.

192 Section 6.6.4 of the Forecast of the social-economic development of the Kyrgyz Republic for 2014 and of 2015-2016, approved by the Government Resolution No. 408 of 12<sup>th</sup> July, 2013.

country, a minimum package of telecom services, and to introduce alternative modern technologies for providing access to informational and telecommunication resources, including by<sup>193</sup>:

- Improving mechanism and legal regulation aimed at developing telecommunication services, promoting competition and improving investment climate;
- completion of construction of the main fibre-optic communication line for the purposes of increasing transit potential of the Kyrgyz Republic for organization of transportation of international traffic in directions Tajikistan – China, Uzbekistan-China and regarding transit independence of Kazakhstan and Russia;
- Completion of telephone services of non-telephone settlements;
- Development of telecom services in the rural area deploying CDMA-450 and Vi-MAX+VSAT standards;
- Using local subdivisions of Kyrgyzpochtasy PE operating in the areas with underdeveloped telecom infrastructure to set up centres of public access to informational and telecom technologies enabling free access to the Internet and other information services;
- Connecting all schools of the Kyrgyz Republic to the Internet;
- Creating at rural governments a network of public information centres with access to the Internet;
- Continuing the development of public computer network (industry information systems: population register, company register, education register, transport register, immovable property register, automated systems: treasury, medicine, geology and mineral resources);
- Creating a main line communications provider at the Republican production union of radio-relay main lines of television and radio broadcasting;
- Modernizing the telecommunication network and ensuring conditions for shifting from an analogue to a digital network, including television and radio broadcasting;
- Ensuring full coverage of settlements by television and radio programs.

It is expected that by 2017 all populated areas of the country will receive an access to the telecommunications, the Internet and digital television of high quality.<sup>194</sup>

The Government of the Kyrgyz Republic plans to carry out privatization of:

- 100% share in the public mobile communications operator, Kyrgyz Mobile Company, holding the license to provide services in WCDMA/UMTS and GSM 1800 standards<sup>195</sup>;
- 49% share in cellular communications operator, Alfa Telecom CJSC, holding the license to provide mobile services in WCDMA/UMTS and GSM 900-1800 standards<sup>196</sup>.

The Government does not plan to carry out privatization of state shareholding in the national telecom operator, Kyrgyztelecom OJSC, licensed to provide fixed line communication, data transmission and mobile communication services of GSM 900-1800 and 3G UMTS/WCDMA standards.

At present, the draft of the new Law of the Kyrgyz Republic “On Electric Communications” is under discussion<sup>197</sup>.

193 National Strategy “Information Communications Technologies for Development of Kyrgyz Republic” approved by President’s Edict No. 54 of 10<sup>th</sup> March, 2002.

194 Section 3.3 and chapter 12 of the National Strategy for Sustainable Development of the Kyrgyz Republic for 2013-2017, approved by the Decree of the President of the Kyrgyz Republic, No. 11 of 21<sup>st</sup> January, 2013.

195 Point 1 of Appendix No. 2 of the program of privatization of state property in the Kyrgyz Republic for 2012-2014, approved by the Jogorku Kenesh Resolution No. 1877-V of 25<sup>th</sup> April, 2012 (with the latest amendments as of 27<sup>th</sup> June, 2013).

196 Point 29 of Appendix No. 2 to the Jogorku Kenesh Resolution No. 941-V of 8<sup>th</sup> July 2011 (with the latest amendments as of 27<sup>th</sup> June 2013).

197 Draft law on the Internet page of the State Agency for Communications of the Kyrgyz Republic [http://nas.kg/index.php?option=com\\_content&view=article&id=61&Itemid=156&lang=en](http://nas.kg/index.php?option=com_content&view=article&id=61&Itemid=156&lang=en)

## 19.4 Microfinance

Over the entire period of its formation and development the Kyrgyz microfinance sector has achieved significant results. Kyrgyzstan was first among Central Asian countries to enact the laws “On Microfinance Institutions in the Kyrgyz Republic” (2002) and “On Credit Unions” (1999).

### Microfinance Institutions

First microfinance institutions (MFIs) in the Kyrgyz Republic were established with the support of international donors. Thus, FINCA Microfinance Company was one of the first to start its operation in 1995. Today, Kyrgyzstan’s microfinance sector has a great diversity of participants engaged in microfinance. According to the National Bank of the Kyrgyz Republic, as of October 31, 2013, the microfinance sector consists of 4 microfinance companies (MFC), 212 microcredit companies (MCC), 65 microcredit agencies (MCA), and 155 credit unions (CU), of which 12 CUs may take deposits from their participants<sup>198</sup>.

The table below lists some of the distinguishing characteristics among different types of microfinance institutions operating in Kyrgyzstan:

Type	Business legal structure	Founders	Minimum size of charter capital	Other distinguishing characteristics
MFC	Open joint stock company;  Closed joint stock company	Specific requirements for MFC founders are described in more detail below.	<p><i>For current MFCs:</i></p> <ul style="list-style-type: none"> <li>- KGS 10 ml. – for non-deposit-taking MFCs;</li> <li>- KGS 50 ml. – for deposit-taking MFCs;</li> </ul> <p><i>For new MFC:</i></p> <ul style="list-style-type: none"> <li>- KGS 50 ml. – for non-deposit taking MFCs;</li> <li>- KGS 100 ml. – for deposit-taking MFCs.</li> </ul>	Are allowed to take time deposits from individuals and legal entities (if properly licensed)
MCC	Any business legal structure permitted for commercial organizations	Legal entities and individuals permitted by Kyrgyz law, irrespective of place of incorporation of legal entities or place of residence or citizenship of individuals.	<p><i>For current MCCs:</i></p> <ul style="list-style-type: none"> <li>- KGS 50,000 for non-branch MCCs;</li> <li>- KGS 100,000 for MCCs with branches.</li> </ul> <p><i>For new MCCs:</i></p> <ul style="list-style-type: none"> <li>- not less than KGS 5 million</li> </ul>	
MCA	Any business legal structure permitted for non-commercial organization (except political parties, trade unions, religious organizations)		Kyrgyz law does not specify a minimum size of the charter capital for a MCA since it is a non-commercial organization	MCAs may not distribute profit among their participants and may only use it for the attainment of their statutory goals

<sup>198</sup> <http://www.nbkr.kg/index1.jsp?item=1467&lang=RUS>

Type	Business legal structure	Founders	Minimum size of charter capital	Other distinguishing characteristics
CU	Cooperative	10 or more Kyrgyz-resident individuals: 1) having similar occupations or professions or the same employer; or 2) residing in one or more nearest settlements or one district <sup>199</sup> .	- not less than KGS 30,000 for credit unions not licensed to take deposits;  - not less than KGS 500,000 for credit unions licensed to take deposits from credit union participants.	CUs help their participants (members) by pooling personal savings of CU participants and using them for mutual lending

To coordinate their efforts, protect and represent the common interests, and to carry out joint projects, microfinance institutions establish their associations. Thus, the Association of Microfinance Institutions (AMFI) was founded in 2005 with the mission to create and maintain the enabling environment and enhance the capacity of microfinance institutions<sup>200</sup>. The Credit Union and Cooperative Association was founded in Kyrgyzstan in 2007<sup>201</sup>.

In 2012 the Government of the Kyrgyz Republic adopted the Microfinance Development Strategy for 2011-2015 (hereinafter – the “Strategy”)<sup>202</sup>. Key recommendations contained in the Strategy relate to public policy in the field of microfinance. Thus, it is recommended to follow the principle of non-interference of state in the pricing issues for microfinance services. This in turn corresponds to the increasing demands to transparency of microfinance providers. As before, the agricultural sector is one of the priority sectors of microfinance. In this regard, one of the urgent tasks of the Strategy is to promote the leasing of agricultural machinery and processing equipment.

In general, the legislation of the Kyrgyz Republic in the field of microfinance creates beneficial conditions for the further development of this industry. Rather liberal rules of law allow AMO to create a wide range of loan products and diversify its loan portfolio.

199 Under Article 11 of the Credit Unions Law, credit union participants may be Kyrgyz-resident individuals and legal entities organized as peasant (husbandry) farms or cooperatives. A credit union participant may not be another credit union.

200 <http://amfi.kg/>

201 <http://credit-unions.kg>

202 Approved by the Resolution of the Government of the Kyrgyz Republic and the National Bank of the Kyrgyz Republic dated February 28, 2012 No. 150/40/6.

## CONCLUSION

This information guide attempts to address as fully as possible the issues faced by investors who wish to establish and conduct business in the Kyrgyz Republic. Nevertheless, we understand that it may not answer all your questions, as business and its regulation have multiple aspects. Moreover, any specific business situation involves a variety of questions, the answers to which can be found not only in specific law provisions, but also in the practice of their application.

However, we hope that the guide will suffice as a starting point for understanding business conduct in the Kyrgyz Republic better, and will help entrepreneurs and companies planning or conducting business in the Kyrgyz Republic to make their business more efficient.

Any comments on this guide would be greatly appreciated and should be e-mailed to:  
[info@invest.gov.kg](mailto:info@invest.gov.kg), [lawyer@k-a.kg](mailto:lawyer@k-a.kg) (marked “Guide to Business in the Kyrgyz Republic”).

## INFORMATION ABOUT THE INVESTMENT PROMOTION AGENCY UNDER THE MINISTRY OF ECONOMY OF THE KYRGYZ REPUBLIC

### About Us

The Investment Promotion Agency under the Ministry of Economy of the Kyrgyz Republic has been set up with an aim to facilitate foreign investment in Kyrgyzstan's economy at the outset by assisting local businesses to search for and promote investment projects and foreign investors to launch investment projects.

### Our Mission

Our mission is to support economic growth by increasing foreign investment in Kyrgyzstan's economy.

### Our Vision

Our vision is to become the most reliable long-term partner of foreign investors.

### Our Goals

Our goals are:

- To facilitate investment in Kyrgyzstan's economy;
- To promote local investment opportunities and to improve Kyrgyzstan's business image;
- To assist local companies to develop their businesses.

### Our Functions

Our functions are:

- To search for and attract foreign investors to implement investment projects in Kyrgyzstan;
- To promote Kyrgyzstan in the international economic environment;
- To participate in supporting investment projects implemented through the PPP model;
- To provide support in obtaining necessary approvals and to remove the barriers to investment;
- To assist investors to solve their problems;
- To provide consulting and information services to investors;
- To conduct expert assessment of business plans and investment projects.

### Our contacts

Address: 106, Chui Avenue, Bishkek, 720002, Kyrgyz Republic  
 Telephone: +996 (312) 62 38 44  
 E-mail: [info@invest.gov.kg](mailto:info@invest.gov.kg)  
 Web page: [www.invest.gov.kg](http://www.invest.gov.kg)

## INFORMATION ABOUT KALIKOVA & ASSOCIATES LAW FIRM

### About Us

Established in 2002, Kalikova & Associates Law Firm has rapidly grown into one of the leading firms in Kyrgyzstan specializing in business law services.

Over the years of its operation, Kalikova & Associates has accumulated a vast and diverse experience in providing legal services to companies doing business in Kyrgyzstan, including foreign investors, international organizations and diplomatic missions. Kalikova & Associates lawyers have consulted on a number of major investment projects in Kyrgyzstan in various areas such as mining, financing from international financial institutions, telecommunications and the recreation business.

### Our Mission

Our mission is to facilitate business development in the Kyrgyz Republic by rendering legal services that meet high standards of professional and ethical conduct.

### Our Professional Objectives

We strive to provide highly professional legal services in Kyrgyzstan based on the following principles:

- Working in a team environment
- Understanding our clients' businesses
- Producing efficient solutions based on the knowledge and understanding of not only legal, but also economic, political and cultural environment in Kyrgyzstan
- Maintaining high standards of professional conduct

### Our Products

We produce efficient legal solutions to protect, support and promote our clients' business.

### Areas of Practice

We provide services in the following areas:

- Antimonopoly Regulation & Competition
- Contracts
- Corporate Issues & Capital Market
- Employment & Migration
- Environmental Protection, Health & Safety
- Intellectual Property
- International Trade, Customs & Technical Regulation
- Legislative Policy & Regulatory Practice
- Litigation & Arbitration
- Mergers & Acquisitions, Business Restructuring & Reorganization
- Product Liability
- Project Finance

- Public-Private Partnership
- Taxation

We offer advice on the legal regulations of the following industries:

- Aviation
- Banking, Microfinance & Insurance
- Construction & Real Estate
- Education Services
- Fast-Moving Consumer Goods
- Hotel & Recreation
- Hydroenergy
- IT & Telecommunications
- International Organizations, Local Non-Governmental Organizations
- Mass Media
- Mining & Exploration
- Oil & Gas
- Pharmaceuticals & Beauty Products
- Tobacco & Alcohol

## **Clients**

Clients and beneficiaries of our services are leading local and foreign companies, transnational corporations, international organizations and financial institutions implementing long-term and short-term projects in Kyrgyzstan.

## **Experience and Qualification**

Our lawyers have played an active role in negotiating, structuring and launching major investment projects in Kyrgyzstan in gold mining industry, manufacture of tobacco products, hotel business, glass and cement production, trade, banking, microfinance, telecommunications, exploration and mining, aircraft leasing, electric energy generation and distribution and a number of other industries.

## **Professional Team**

Currently, there are 20 lawyers in our firm, educated both in Kyrgyzstan and abroad. Our lawyers are members of the Association of Lawyers of Kyrgyzstan, American Bar Association, International Bar Association, arbitrators of the International Court of Arbitration of the Kyrgyz Republic. Our team includes licensed litigation lawyers and patent attorneys.

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