Baker McKenzie.

Doing Business in Azerbaijan

2018

Doing Business in Azerbaijan

2018

Baker & McKenzie - CIS, Limited

Baku Office
The Landmark Building III
90A Nizami Street
Baku AZ1010
Azerbaijan

Telephone: +994 12 497 18 01
Facsimile: +994 12 497 18 05
baku@bakermckenzie.com

www.bakermckenzie.com

Table of Contents

Preface

Baker McKenzie has been providing sophisticated legal advice and services to the world's most dynamic global enterprises for over 60 years now.

With a network of more than 4,200 locally qualified, internationally experienced lawyers in 77 offices across 47 countries, we have the knowledge and resources to deliver the broad scope of quality services required to respond effectively to both international and local needs – consistently, with confidence, and with sensitivity to cultural, social and legal differences.

Active in the former USSR and the Commonwealth of Independent States ("CIS") for over 40 years, and with offices in Almaty, Baku, Kyiv, Moscow, and St. Petersburg, we have always had one of the largest legal practices in the CIS. Leveraging the expertise of our worldwide network of specialists, we offer the best possible legal advice in all aspects of investment in the region, including corporate law, banking and finance, securities and capital markets, venture capital, competition law, tax and customs, real estate and construction, labor and employment, intellectual property, and dispute resolution.

On 20 October 1998, having established a presence in Baku six months earlier, Baker McKenzie became the first international law firm to be granted a license to practice law in Azerbaijan.

Since gaining independence in 1991, Azerbaijan has adopted new legislation at a rapid pace. It is a country with a legal system in ongoing development. In response to the need for accurate, up-to-date information, Doing Business in Azerbaijan has been prepared as a general guide for companies operating in or considering investment in Azerbaijan. It is intended to present an overview of the key aspects of the Azerbaijani legal system and the regulation of business activities in the country.

The information contained in this guide is current as of the date below. We would be happy to provide you with updates on the material contained in this guide, or with further information regarding a specific industry or area of Azerbaijani law in which you might have a particular interest.

Baker & McKenzie – CIS, Limited
February 2018

1. Republic of Azerbaijan – An Overview

Location, Area and Topography

Bounded by the Caspian Sea to the east and the Greater Caucasus mountain range to the north, the Republic of Azerbaijan has a total land area of 86,600 square kilometers (km^2). Sharing borders with Georgia, Russia, Turkey, Iran and Armenia, Azerbaijan has long been the geographical center of the region's oil industry.

Demographics

With a population of over 9,810 million (as of the beginning of 2017), Azerbaijan enjoys a young demographic profile with some 21.6% of the population between 14 and 29 years old and only 6.3% at retirement age.

The population is evenly distributed between urban and rural areas, with 54% residing in and around cities. Some 9 % of the estimated workforce of more than 4.7 million is engaged in agriculture and forestry, while 23.6% works in industry and construction.

While Azerbaijan is constitutionally a secular state, the vast majority (93%) of the population is Muslim. The official language is Azerbaijani, a Turkic language.

Government Organization

The country's Constitution was ratified by popular referendum in November 1995 and is Azerbaijan's first Constitution as an independent state. It provides for a unicameral parliament (the National Assembly — the Milli Majlis) with members elected for five-year terms. While the Constitution previously provided for both majority voting and proportional representation, nowadays, following amendments to the Constitution in 2002, National Assembly members are elected by majority vote only.

According to the recent amendments to the Constitution, approved on 11 October 2016, the president is elected for a seven-year term by popular vote. With the consent of the National Assembly (Milli Majlis), the president appoints the prime minister and other members of the Cabinet of Ministers. The president is also vested with the authority to appoint and dismiss the first vice-president and vice-presidents of the Republic of Azerbaijan.

Judicial power in Azerbaijan is exercised by a court system whose independence is guaranteed by the Constitution. The Constitutional Court resolves issues relating to the compliance of laws, governmental acts, court decisions and international treaties with the Constitution. It resolves disputes among branches of government and interprets the Constitution and laws on issues related to human rights and fundamental freedoms. The Supreme Court of the Republic of Azerbaijan is the court of last resort for civil, criminal, administrative and other matters.

Results of Elections and Political Considerations

The current President, Ilham Aliyev, was elected in October 2003 and re-elected for a second presidential term in October 2008. Ilham Aliyev was re-elected for a third presidential term in October 2013.

On 21 February 2017, following the amendments to the Constitution of the Republic of Azerbaijan adopted on the referendum in September 2016, the Azerbaijani president appointed Mehriban Aliyeva, the first lady of Azerbaijan, the first vice-president of the Republic of Azerbaijan.

Since the 2015 parliamentary elections, the majority of National Assembly seats have been held by members of the New Azerbaijan Party, established by former president Heydar Aliyev.

Following the May 1994 ceasefire in the armed conflict with Armenia over the Daglig Qarabag (Nagorno-Karabakh) region of Azerbaijan, the political situation in Azerbaijan has been stable. The resolution of

the Nagorno-Karabakh conflict is being mediated by the Organization for Security and Cooperation in Europe ("OSCE").

Foreign Relations and International Organizations

Since gaining independence, Azerbaijan has become a member of many international organizations, including the United Nations, OSCE, the Council of Europe, the European Bank for Reconstruction and Development, the World Bank, the International Monetary Fund ("IMF"), Interpol, the Organization for Black Sea Economic Cooperation, the Black Sea Trade and Development Bank, and the Asian Development Bank. It enjoys observer status in the World Trade Organization ("WTO"), it has joined the Partnership for Peace program of the North Atlantic Treaty Organization ("NATO") and it participates in the European Union's New Neighborhood Policy. Azerbaijan has been a member of the Commonwealth of Independent States ("CIS") since September 1993.

Economy

Background

Azerbaijan possesses fertile agricultural land, considerable oil and gas reserves, and a relatively developed industrial sector. However, the legacy of Soviet central planning and the instability of the early 1990s, which was largely due to deteriorating trade relations with former Soviet partners and the conflict in Nagorno-Karabakh, resulted in a significant decline in economic output. By 1995, for example, output had declined by 50% in the petrochemical and machine-building industries, although less dramatically in light industries.

Most of Azerbaijan's industrial enterprises are located in Baku, Sumgayit and Ganja. Heavy industry consists of petroleum extraction and refining, metallurgy, aluminum mining and refining, petrochemicals and chemical production. Light industry consists of food processing, textiles and wine production. Baku's main industries are oil and gas equipment and light manufacturing; Sumgayit's production focuses on chemical and petrochemical products, textiles

and aluminum smelting; and Ganja is home to an aluminum refining plant and also specializes in textiles, machine building and metallurgy.

The effect of the economic decline of the early 1990s has also been evident in agriculture — a critically important sector in Azerbaijan, employing about 37% of the labor force. Cotton is Azerbaijan's leading cash crop, together with grapes (for wine production), fruit, nuts, vegetables and tobacco.

Gross Domestic Product

Since the economic downturn in the early 1990s, Azerbaijan's economy has been increasing at a rapid pace. The long-awaited production from offshore fields developed by a consortium of international oil and gas companies together with the State Oil Company of the Republic of Azerbaijan, completion of the major Baku-Tbilisi-Ceyhan and South Caucasus (Shah Deniz) oil and gas pipelines, and global demand for oil and gas have all exercised a significant influence on the Azerbaijani economy in recent years.

For 2012, the gross domestic product (GDP) was AZN 52,282.90 billion, and per capita GDP AZN 5,587.87. For 2013, GDP was AZN 57 billion and per capita at GDP AZN 6,132. The figures for 2014 were as follows: GDP AZN 53,744 billion with per capita at AZN 5,670. GDP for 2015 was AZN 54,352 billion with per capita at AZN 5,600.41. The GDP for 2016 was at the rate of AZN 59,987.70 billion with per capita at AZN 6,180.73. The GDP from January to November 2017 was at the rate of AZN 63,071.30 billion with per capita at AZN 6,481.80.

Unemployment, Wages and Inflation

Official statistics as of December 2015 indicate that approximately 234,700 people are unemployed, although the actual figure is probably higher. The average monthly wage as of October 2017 was

AZN 525.60 (USD 309.14[1]). The inflation rate as of November 2017 was 13.7% compared to 12.4% in December 2016.

Foreign Trade and Balance of Payments

The government has made a significant effort to attract foreign investment in the domestic oil and gas industry, which has grown sharply since 1995 as a result of the increase in the number of oil contracts signed with foreign companies during this period.

Total foreign trade from January to November 2017 was approximately USD 19.5 billion, of which imports accounted for approximately USD 7 billion and exports USD 12.5 billion.

Internal and External Debt

Azerbaijan has a relatively low level of external debt (one of the lowest among CIS countries), estimated in July 2017 at USD 7,172.6 billion.

[1] **Note**: Please note that all the USD figures are based on the official rate of AZN for 7 February 2018 (AZN 1 equals to USD 1.7001)

2. Foreign Investment in Azerbaijan

- What is the legal framework for foreign investment?

Foreign investment in Azerbaijan is regulated by a number of international treaties and agreements, and by domestic legal acts, including the Law on Protection of Foreign Investment dated 15 January 1992 (the Foreign Investment Law); the Law on Investment Activity dated 13 January 1995 (the Investment Activity Law); the Law on Investment Funds, dated 22 October 2010 (the Investment Funds Law); the Law On Privatization of State Property dated 16 May 2000 (the "Privatization Law") and the Second Program for Privatization of State Property of the Republic of Azerbaijan (the "Second Privatization Program"), as well as laws regulating specific sectors of the Azerbaijani economy.

- What are the forms of foreign investments of foreign investors in Azerbaijan?

Foreign investors (foreign entities, governments, international organizations and individuals permanently residing outside Azerbaijan) may engage in any investment activity not prohibited by Azerbaijani law. Pursuant to the Foreign Investment Law, foreign investment may take any of the following forms:

  - Participation in entities established jointly with legal entities and citizens of the Republic of Azerbaijan;
  - Establishment of enterprises wholly owned by foreign investors;
  - Purchase of enterprises, proprietary complexes, buildings, structures, shares in enterprises, other shares, bonds, securities and other kinds of property which, under the laws of the Republic of Azerbaijan, may be owned by foreign investors;

- Acquisition of rights to use land and other natural resources, as well as other proprietary rights; and
- Conclusion of agreements with legal entities and citizens of the Republic of Azerbaijan providing for other forms of foreign investment.

Enterprises with foreign investment include joint ventures, enterprises wholly owned by foreign investors, and representations (offices and branches) of foreign legal entities.

- What are the guarantees provided for foreign investments in Azerbaijan?

Under Azerbaijani law, foreign investments are provided with the following guarantees:

- A "not-less-favored" regime for foreign investors — except as otherwise provided for in an applicable bilateral investment or other treaty or the Foreign Investment Law, foreign investors have the same rights as local investors and may additionally be granted preferential rights not accorded to local investors.
- Foreign investors have the right to repatriate profits, revenues and other amounts received in connection with investments, provided that all applicable Azerbaijani taxes have been paid.
- When a change in Azerbaijani legislation adversely affects an investment, the application of that change is subject to a 10-year moratorium. The moratorium has the force of law and is automatically enforceable and binding upon all Azerbaijani state agencies. Legislation that governs national security, defense, public order, morality, public health and environmental protection, as well as acts affecting credits and finances, fall outside the scope of the moratorium. However, under the Investment

Activity Law, subsequent acts (including acts governing defense, national security, public order and tax) adversely affecting investment terms should not apply to the investor for the term of an "investment contract."

- Nationalization is possible by resolution of the National Assembly under exceptional circumstances to prevent harm to the people or state interests of the Republic of Azerbaijan. Confiscation is only possible under circumstances of natural disaster, epidemics and other extraordinary situations by a decision of the Cabinet of Ministers. In both cases, foreign investors are entitled to compensation that must be "prompt, adequate and effective."

- Free access to international arbitration. The use of arbitration for dispute resolution is generally possible where two conditions are present: the law does not specifically prohibit a particular type of dispute from being submitted to an arbitration tribunal; and the parties agree to transfer specific disputes to the international tribunal.

- What are the incentives available to foreign investors in Azerbaijan?

Incentives may be available to foreign investors and enterprises with foreign investment in certain sectors of the Azerbaijani economy, notably the energy sector. These are granted by legislative acts regulating those sectors, as well as by agreements concluded by the state with investors. The president of the Republic of Azerbaijan approved the Decree on Additional Measures to Promote Investment dated 18 January 2016, endorsing regulations on stimulating investment in Azerbaijan using investment certificates (the "Regulations"). An investment certificate grants individuals and legal entities tax and customs privileges and can be obtained by confirming payment of at least 10% of the statutory minimum investment under

the investment project and submitting a business plan along with a copy of a taxpayer registration certificate.

The Presidential Decree On Establishment of Areas of Economic Activity and Administrative Territorial Units (in which the Investments shall be Carried out), as well as the Minimum Amount of Investment, dated 20 April 2016, determines areas of economic activity and administrative territorial units (in which the investments shall be carried out), as well as the minimum amount of investment to be considered for granting the investment certificate in accordance with the Regulations.

- What are bilateral and multilateral treaties on the mutual protection of investments, ratified by Azerbaijan?

Bilateral investment treaties and other treaties on foreign investment provide additional guarantees to foreign investors, and are aimed at establishing a more favorable investment climate. Under Azerbaijani law, international treaties prevail over local law regulating the same issue (except for the Constitution and acts adopted by referendum).

Azerbaijan has ratified 47 bilateral treaties on the mutual protection of investments, as shown in Table 1 below, with several more treaties currently under negotiation. Azerbaijan is also party to a number of multilateral treaties concerning foreign investment.[2]

Table 1: Bilateral Investment Treaties

	Country	Signed	Ratified
1	Turkey	9 February 1994	14 June 1994
2	USA	1 August 1997	14 April 1998
3	Pakistan	9 October 1995	12 March 1996

[2] The convention on the Protection of Investor Rights was signed by CIS countries on 28 March 1997. Turkmenistan, Uzbekistan and Ukraine, however, did not sign this convention.

	Country	Signed	Ratified
4	Germany	22 December 1995	25 June 1996
5	Great Britain	4 January 1996	15 March 1996
6	Georgia	8 March 1996	19 April 1996
7	Uzbekistan	27 May 1996	16 July 1996
8	Kazakhstan	16 September 1996	15 November 1996
9	Ukraine	25 March 1997	6 June 1997
10	Kyrgyzstan	23 April 1997	26 June 1997
11	Poland	26 August 1996	13 February 1998
12	Iran	28 October 1996	1 December 1998
13	Italy	25 September 1997	17 February 1998
14	Moldova	27 November 1997	8 December 1998
15	Lebanon	11 February 1998	4 December 1998
16	France	1 September 1998	27 November 1998
17	Austria	4 July 2000	24 October 2000
18	Egypt	24 October 2002	13 May 2003
19	Romania	29 October 2002	5 December 2003
20	Finland	26 February 2003	13 May 2003
21	Belgium-Luxemburg Economic Union	18 May 2004	26 October 2004
22	Bulgaria	7 October 2004	1 March 2005
23	Greece	21 June 2004	26 October 2004
24	Saudi Arabia	10 March 2005	10 May 2005

	Country	Signed	Ratified
25	Tajikistan	15 March 2007	5 June 2007
26	Korea	23 April 2007	1 October 2007
27	Hungary	18 May 2007	1 October 2007
28	Latvia	3 October 2005	1 March 2006
29	Switzerland	23 February 2006	10 April 2007
30	United Arab Emirates	20 November 2006	10 April 2007
31	Lithuania	8 June 2006	10 April 2007
32	Israel	20 February 2006	1 October 2007
33	Qatar	28 August 2007	19 October 2007
34	Croatia	2 October 2007	1 February 2008
35	Jordan	5 May 2008	2 October 2008
36	Syrian Arab Republic	8 July 2009	30 September 2009
37	Kuwait	10 February 2009	28 April 2009
38	Serbia	13 May 2010	30 September 2010
39	China	27 May 2010	16 June 2010
40	Mauritania	15 July 2010	22 October 2010
41	Uzbekistan	27 September 2010	11 February 2011
42	Czech Republic	17 May 2011	30 September 2011
43	Montenegro	16 September 2011	13 December 2011
44	Albania	9 February 2012	22 May 2012
45	Macedonia	23 April 2013	21 June 2013

	Country	Signed	Ratified
46	Russia	29 September 2014	16 December 2014
47	San-Marino	25 September 2015	18 December 2015

In addition to the conventions listed in 16.3 below, Azerbaijan signed a multilateral treaty on the mutual protection of investments with the OPEC Fund for International Development on 19 November 2002, which was ratified on 9 December 2003.

- What is the process of privatization in Azerbaijan?

The privatization process in Azerbaijan occurred in two stages. The first stage, from 1995 to 1998, ended up being extended, however, until the adoption of the Second Privatization Program in 2000.

This first wave of privatization allowed for four methods of privatization of state-owned property: privatization of small enterprises; privatization of medium- and large-scale enterprises; privatization of banks (later excluded from the program); and the sale of shares in specialized investment funds (this last method did not develop into an effective privatization tool).

All privatized medium- and large-scale enterprises (except those already existing as joint stock companies) were to be restructured into joint stock companies, the shares of which were to be distributed through discount sales to employees of the privatized enterprises, voucher auctions,[3] investment tenders or cash auctions.

As the first privatization program did not fully achieve its objectives, new legislation was created — the Privatization Law, which came into effect on 11 August 2000, and the Second Privatization Program, one day later on 12 August 2000. Together, these allowed for the privatization of the remaining large-scale enterprises and "strategic

[3] Voucher privatization ended on 1 January 2011.

units" in the telecommunications, chemical and petrochemical, and metallurgy sectors. While the new program introduced certain new methods of privatization (such as "special project" privatization designed to attract strategic investors), it retained the principal methods provided under the first program.

Under the general principles of the Privatization Law, all state-owned property (except certain categories prohibited by law) may be privatized. Property types that may not be privatized include subsoil reserves, military facilities, certain entities and organizations funded by the state budget, other property units of state importance, and certain public facilities. The main authority responsible for implementing the Second Privatization Program and for coordinating the activities of other authorities related to privatization is the State Committee on Property Issues.

According to the Second Privatization Program, the most significant state assets are privatized by a decision of the president, who also approves foreign investors' participation in such privatizations; other properties that qualify for privatization are privatized by a decision from the State Committee on Property Issues.

- Are there specific conditions applicable to foreign investors in privatization tenders?

Specific conditions may apply to the participation of foreign investors in privatization tenders. If foreign investors participate in privatization by reinvesting funds earned in Azerbaijan, prior to participating in auctions and investment tenders they must submit a statement of such funds approved by the tax authorities to the State Committee on Property Issues.

On 21 October 2016, the Cabinet of Ministers of Azerbaijan issued Order No. 550 with (i) the list of state enterprises to be maintained under the state property in the medium-term period and (ii) the list of non-profile enterprises and assets subject to privatization. Additionally, the State Committee on Property Issues has developed

the draft of the Third State Privatization Program (the "Third Privatization Program") and the draft is currently being reviewed by the Presidential Administration. Among the main objectives of the Third Privatization Program is to attract foreign investments, increase efficiency and transparency in respective sectors and save budgetary funds. Nevertheless, the government does not plan to privatize certain strategic assets. The funds derived from the implementation of the Third Privatization Program are planned to be invested in further development of the non-oil sector.

3. Establishing a Legal Presence

- What is the legal framework for establishing a legal presence in Azerbaijan?

Establishing a legal presence in the Republic of Azerbaijan is regulated mainly by the Civil Code[4] effective 1 September 2000, as amended (the "Civil Code"), and the Law on State Registration and the State Register of Legal Entities,[5] as amended.

A foreign investor wishing to establish an entity in Azerbaijan may choose either a limited presence, in the form of a representative office or a branch, or a full presence in a number of legal organizational forms.

In 2008, Azerbaijan introduced a "one-stop shop" system of registration of local commercial legal entities and foreign commercial legal entities' representative offices or branches, with a greatly simplified registration procedure that allows persons wishing to engage in business in Azerbaijan to interact and file all documents with a single state authority, the Ministry of Taxes, in the process of establishing a legal presence.

- Representative office or branch office of a foreign legal entity?

Legal Status

Neither a representative office nor a branch of a foreign legal entity is considered an Azerbaijani legal entity. Under the Civil Code, a representative office is a separate subdivision of a legal entity (including, presumably, a foreign entity) that represents and protects the legal entity's interests. A branch is also a separate subdivision of a

[4] Approved by Law No. 779-IQ of the Republic of Azerbaijan, dated 28 December 1999.
[5] Law No. 560-IIQ of the Republic of Azerbaijan, On State Registration and the State Register of Legal Entities, dated 12 December 2003.

legal entity engaging in some or all of the functions of the legal entity, including the functions of a representative office. These definitions suggest that the scope of a branch's activities is wider than that of a representative office.

Since a representative office may only represent and protect the interests of a legal entity, without engaging in the functions of a legal entity, a representative office generally may not engage in commercial or business activity. A branch, on the other hand, being able to carry out all or part of a legal entity's functions, may engage in business or commercial activity.

Registration

Branches and representative offices of foreign commercial legal entities are registered with the Ministry of Taxes, while branches and representative offices of foreign non-commercial legal entities are registered with the Ministry of Justice.

The Ministry of Taxes is required to effect registration within two business days of submission of the necessary documents; the Ministry of Justice must do the same within 40 business days.

Since 2009, the only registration required for branches and representative offices of foreign non-commercial legal entities is an agreement between the foreign legal entity and the Ministry of Justice.

The Cabinet of Ministers of the Republic of Azerbaijan enacted Resolution No. 43, dated 16 March 2011, approving the Regulations for Negotiating and Entering into an Agreement Concerning Registration of Branches and Representative Offices of Foreign Non-Commercial Legal Entities in the Republic of Azerbaijan (the "Regulations"). Pursuant to the Regulations, a letter (free form) stating the foreign entity's objectives and the benefits to Azerbaijan of the entity's presence must be submitted to the Ministry of Justice. The Regulations, however, do not mention the timeframe for consideration of the letter or the procedures to be followed if the letter fails to convince the ministry of the foreign entity's benefits to Azerbaijan.

Statutory changes further provide that the deputy head of a foreign non-commercial legal entity's branch or representative office in Azerbaijan must be a citizen of the Republic of Azerbaijan.

The state duty for registering a branch or representative office of a foreign legal entity is AZN 220 (USD 129).

In order to be registered as a representative office or a branch, an applicant must submit an application to the Ministry of Taxes (for foreign commercial legal entities) or the Ministry of Justice (for foreign non-commercial legal entities) along with a set of statutorily required corporate and other documentation. Both representative offices and branches operate in Azerbaijan on the basis of regulations (similar to a charter) approved by the parent legal entity. A representative office and a branch are subject to the same registration procedure and submit largely the same set of documents for state registration. Documents from the parent entity must be notarized and apostilled (legalized) in the home country. Any document in a language other than Azerbaijani must be accompanied by a notarized translation into Azerbaijani.

The Ministry of Taxes and the Ministry of Justice accept documents with an apostille issued abroad by member countries of the 1961 Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents. An apostille normally involves fewer formalities than legalization. The acceptability in Azerbaijan of an apostille certification issued in a particular foreign country, and vice versa, should be checked with the relevant authorities before proceeding with such certification. As the Federal Republic of Germany objected to Azerbaijan's accession to the 1961 Hague Convention, German apostilles are not recognized in Azerbaijan and vice versa.

Following state registration, a representative office or branch needs to obtain an official seal and open bank accounts.

- What are the organizational forms of commercial legal entities in Azerbaijan?

Under the Civil Code, legal entities may be either commercial or non-commercial. The Civil Code provides for the following organizational forms of commercial legal entities:

  - Joint Stock Companies;
  - General Partnerships;
  - Limited Partnerships;
  - Limited Liability Companies;
  - Additional Liability Companies; and
  - Cooperatives.

Azerbaijani entities are generally incorporated or established pursuant to a founders' agreement and a charter. A founders' agreement is not required at the creation of companies with one participant. The founders' agreement governs the rights and obligations of the founders and the relations between the founders and the entity. The charter generally governs the structure and management of the entity and the rights of participants and shareholders in connection therewith. Certain provisions of the founding documents defined in the Civil Code are mandatory.

Commercial legal entities established in Azerbaijan are subject to state registration with the Ministry of Taxes, which is required to effect registration within two business days of submission of the necessary documents.

Pursuant to Law No. 382, dated 12 June 2012, approving amendments to the law On State Registration and the State Register of Legal Entities, information on the founders (participants) and their shares in the charter capital of commercial legal entities is considered a

commercial secret and may only be disclosed to third persons under specific circumstances.

Azerbaijani corporate law fixes a minimum amount of charter capital for JSCs. In certain cases (such as for banking and insurance companies), additional requirements are imposed by specific legislation.

Joint Stock Company ("JSC")

Nature of JSCs

A JSC is a legal entity whose charter capital is divided into a certain number of shares, which are securities. JSC shareholders are liable for the obligations of the JSC only to the extent of their shares' value.

Types of JSCs

A JSC may be either open or closed.

A closed JSC with more than 50 shareholders must be reorganized into an open JSC. The shares of a closed JSC are distributed only among the founders and may be transferred to third parties only upon the shareholders' failure to exercise the right of first refusal and upon a closed JSC's failure to purchase such shares.

Shares of an open JSC are publicly sold and may be alienated by shareholders to third parties without restriction.

Creation of JSCs

A sole individual or legal entity may be the founder or shareholder of a JSC.

The process of establishing a JSC is initiated at the founders' meeting, which adopts the founders' agreement, if applicable, and the charter of the JSC. It includes state registration of the JSC, state registration of the share issue, placement of the issued shares, and registration of the report on the results of the placement. The par value of the shares of a newly established JSC must be paid by the founders prior to state

registration of the JSC. Subsequent to establishment, the JSC's shares may be placed either among the founders in closed JSCs or through a public offering in open JSCs. An open JSC may conduct the public offering itself or through a stock exchange.

Charter Capital

The charter capital of a JSC is divided into a fixed number of shares of a stated par value. The minimum charter capital is AZN 2,000 (USD 1,176) for a closed JSC, and AZN 4,000 (USD 2,353) for an open JSC.

The charter capital of a JSC must be fully paid on or before the date of the JSC's state registration. If the net worth of a JSC's assets is less than the amount of its charter capital at the end of any fiscal year the JSC must decrease its charter capital and register the decrease with the Ministry of Taxes.

Charter Capital Contributions

Contributions to the charter capital of a JSC may be made in cash or in kind. The value of the contributions made in kind must be confirmed by the founders' meeting. Payment for publicly placed shares must be made in cash.

Shares

Shares in a JSC are investment securities, and their issuance must be registered with the Chamber of Control over the Financial Markets. Only a JSC may be an issuer of shares. Shares may be either common or preferred; preferred shares may not be issued in an amount exceeding 25% of the charter capital. Shares may be merged, divided or converted into other shares. The shares in a JSC may be denominated only in AZN.

Rights of Shareholders

The shareholders of a JSC have the following rights, among others: the right to receive the JSC's declared dividends, the right to vote at

the general meeting of shareholders, the right of access to the JSC's records, and the right to receive dividends and a share of the property of a JSC upon liquidation, after payment of creditors.

Shareholders owning preferred shares have a preferential right to dividends and to distributed assets upon liquidation, but do not have the right to vote unless so provided in the JSC's charter. Such voting rights may include for the matters as reorganization and liquidation of a JSC and changes and additions to the restrictions on preferential rights. Shareholders have one vote for each share of common stock owned.

Management Structure

General Meeting of Shareholders

The General Meeting of Shareholders ("GMS") has exclusive competence in:

- amending the JSC's charter and charter capital;
- appointing and terminating the JSC's management bodies and their members;
- approving the JSC's annual reports, balance sheets and financial statements, as well as distribution of its dividends and losses;
- reorganizing and liquidating the JSC;
- approving the conclusion of agreements with a value exceeding 25% of the JSC's net assets; and
- approving the conclusion of related party transactions with a value equal to or exceeding 5% of the JSC's assets.

The GMS makes its decisions unanimously or by a simple or qualified majority of votes present at the GMS. The minimum number of votes

necessary to make a decision must be set forth in the JSC's charter. A quorum for a GMS is present if shareholders owning (at least) 60% of the voting shares participate in the GMS.

A GMS must be held at least once a year. Any GMS other than the annual GMS is considered an extraordinary GMS. Either the executive body, the Board of Directors (Supervisory Council), the internal auditor (Audit Commission), or a group of shareholders holding at least 10% of the shares may call an extraordinary GMS. Any annual or extraordinary GMS must be called with notice (containing an agenda) thereof being sent to each shareholder, and an announcement of the GMS published in an official mass-media press outlet (except for closed JSCs) at least 45 days before the GMS.

Board of Directors (Supervisory Council)

A JSC with more than 50 shareholders must have a Board of Directors with the number of members specified in the JSC's charter. The board can consist of shareholders or outsiders. The Board of Directors monitors the activity of the JSC's executive body and performs other functions entrusted to it by the GMS. A member of the Board of Directors may not serve as a member of the JSC's executive body.

Executive Management

A JSC's executive management may consist of a collegial executive body (a management board) or a sole executive body (general director). The executive body is responsible for the JSC's day-to-day management. It reports to the Board of Directors/Supervisory Council and to the GMS. Pursuant to a GMS resolution, the JSC may be managed by an outside sole entrepreneur or another commercial legal entity.

Both JSC shareholders and outsiders may be members of a collegial executive body. Neither members of the Board of Directors nor shareholders holding more than 20% of the shares may be members of the executive management. The management board or general director is competent to make any decision not within, either by law or the

founding documents, the exclusive competence of the GMS or the Board of Directors.

Internal Audit Commission

An internal audit commission is mandatory for JSCs with more than 50 shareholders. An audit commission is established by the Board of Directors (Supervisory Board) for the preparation and implementation of internal audit policies and strategies and for the organization of audit control. An audit commission can also be established in JSCs with less than 50 participants if provided for in the JSC's charter.

Rules in respect of the formation of such audit commission, its composition and activity shall be determined by law and by the JSC's charter.

General Partnership ("GP")

A GP is a legal entity that is formed by at least two sole proprietors and/or commercial legal entities, eg, the general partners. Partners are jointly and severally liable for the partnership's liabilities. To the extent that the partnership lacks sufficient assets to cover its obligations, the partners are personally liable for its obligations. Participation in the GP by each partner is considered to be an entrepreneurial activity. Individuals and/or legal entities may participate in only one GP at a time.

Rights of Partners

A partner may withdraw from a GP under the terms and procedures provided for in the founding documents without causing the dissolution of the GP. The withdrawing partner must provide the other partners with at least six months' notice prior to the actual date of withdrawal. The withdrawing partner will receive payment for the market value of his or her interest in the partnership.

The withdrawing partner may transfer his or her participatory interest in the GP to any other person only with the consent of the other

partners. The remaining partners have a preemptive right to acquire the participatory interest.

The remaining partners and the withdrawing partner are equally liable, for two years following approval of the annual accounts for the year of the withdrawal, for the GP's debts arising prior to the withdrawal. Additionally, a newly admitted partner is liable for all partnership debts of the GP, including those that arose prior to his or her admittance.

Management Structure

The supreme body of a GP is the general meeting of partners ("GMP"). The issues addressed at the GMP are essentially the same as those addressed at the GMS of a JSC.

The management of the GP's activities is conducted with the unanimous consent of all partners, except where the GP's charter provides otherwise. Each general partner has only one vote and may act on behalf of the GP unless otherwise provided for by the GP's charter.

Limited Partnership ("LP")

An LP is a legal entity having one or more general partners and one or more limited partners - individuals and/or legal entities. General partners are personally liable for the partnership's obligations. The liability of limited partners is limited to the amount of their contributions. A person may participate as a general partner only in one LP. Similarly, a partner of a GP may not participate as a general partner in an LP.

Rights of Partners

A partner may withdraw from an LP without causing the dissolution of the LP. The withdrawing partner must provide the other partners with at least six months' notice prior to the actual date of withdrawal. The LP must pay the withdrawing partner the value of his or her participatory interest.

Management Structure

The management of an LP's activities is conducted by the general partners.

Limited Liability Company ("LLC")

An LLC is an entity established by one or more individuals and/or legal entities contributing their participatory interests to the charter capital. The sole participant in an LLC may not be a company having only one participant/shareholder (either an individual or a legal entity). The participants in an LLC are normally liable only to the extent of their contributions. An LLC is not responsible for the obligations of its participants to third parties.

According to the law On State Registration and the State Register of Legal Entities, a local investment LLC (an LLC founded by an Azerbaijani citizen and/or a legal entity registered in Azerbaijan) and a foreign investment LLC (an LLC founded by a foreign national or stateless person, as well as by a legal entity registered in a foreign country), in addition to ordinary paper-based registration, can be registered electronically. Certain restrictions apply, for example, the person must use a charter template recommended by the Ministry of Taxes.

Rights of Participants

A participant in an LLC has the same basic rights as those provided to a shareholder of a JSC. A participant in an LLC is not liable for the LLC's obligations and bears the risk of loss for the LLC's activities only to the extent of the value of his or her contribution to the LLC's charter capital.

Management Structure

The supreme governing body of an LLC is the general meeting of participants ("GMP"). A GMP must be held at least annually. A GMP dealing with the results of annual activity must be held no later than four months following the end of the reporting year. Any GMP other

than the annual GMP is an extraordinary GMP, and such a GMP may be called at the initiative of the executive management, Board of Directors, or internal audit commission (auditor), or at the demand of LLC participants holding at least 10% of the total votes in the LLC. The issues addressed at the GMP are essentially the same as those addressed at the GMS of a JSC.

Between GMPs, the Board of Directors or the Supervisory Council (if this has been provided for in the founding documents of the LLC), composed of participants or outsiders, supervises the LLC's executive body. The meetings of the Board of Directors must be held no less than once every three months during every fiscal year.

An LLC's executive management may be either a collegial body (management board) or a sole manager. A member of the Board of Directors may not be a member of the executive management. An LLC may hire an outside manager (either an individual or entity) if provided for in the charter.

Internal Audit Commission

An internal audit commission is mandatory for LLCs with more than 50 participants. The audit commission is established by the Board of Directors (Supervisory Board) for the preparation and implementation of internal audit policies and strategies and for the organization of audit control. An audit commission can also be established in LLCs with less than 50 participants if provided for in the LLC's charter.

Rules in respect of the formation of the audit commission, its composition and activity shall be determined by law and by the LLC's charter.

Charter Capital

The charter capital consists of the contributions of the participants. The charter capital of an LLC is divided into a fixed number of participatory interests set forth in the LLC's charter. Azerbaijani law does not establish a minimum charter capital requirement for an LLC.

Pursuant to Law No. 287, On Amendments to the Civil Code of the Republic of Azerbaijan, dated 30 December 2011, if the charter of an LLC does not specify a period for making charter capital contributions, the founding participants must make their contributions by the date of the LLC's state registration. Should the charter of an LLC specify a period for the payment of charter capital, the founding participants must make their contributions within the specified timeframe, which should not exceed three months. The value of "in-kind" contributions (eg, equipment, property) or contributions in the form of property rights is determined by a resolution of the GMP.

Additional Liability Company ("ALC")

An ALC is an entity established by one or more individuals and/or legal entities contributing their shares to the charter capital. The legal structure of an ALC is similar to that of an LLC. The distinction between an ALC and an LLC is that the participants in an ALC may assume liability for the company in excess of their contributions as regulated by the charter.

Cooperative

A cooperative is a voluntary union of at least five individuals and legal entities for the purpose of satisfying the material and other needs of the participants through the consolidation of their material contributions. Depending on the purpose of their activity, cooperatives may be of different kinds, such as consumer cooperatives and condominiums.

Rights of Members

In essence, a member of a cooperative enjoys the same rights available to founders of other types of legal entities, including the right to participate in the management of the cooperative, unless the membership is associative. Unless otherwise provided for in the charter of the cooperative, the members of a cooperative have the right to obtain membership in other cooperatives.

Cooperative's Property

The members of a cooperative must make contributions to the share fund in full prior to the state registration of the cooperative. The cooperative's property is divided into shares among its members, in accordance with the charter.

If, pursuant to the results of the fiscal year, a cooperative suffers financial losses, the members must cover such losses by way of additional contributions made no later than two months from the date of approval of the annual balance sheet. The cooperative members bear secondary liability for the cooperative's obligations to the extent of the unpaid portion of their additional contributions.

Management Structure

The supreme management body of a cooperative is the general meeting of members. Each member of the cooperative has one vote at the general meeting, without regard to the size of its contribution to the share fund. A cooperative with more than 50 members may have a Supervisory Council that controls the activities of the cooperative's executive bodies. The executive bodies of a cooperative are a Management Board and/or a chairperson of the cooperative. A member of the Supervisory Council or Management Board of a cooperative may not be a member of another similar cooperative.

- ## What are the forms of non-commercial organizations in Azerbaijan?

An Azerbaijani non-commercial or not-for-profit organization is an entity created to engage in various social and economic activities not related to the generation of profit and the distribution of such profit to its founders. As an Azerbaijani non-commercial organization is treated as a legal entity, it may own property, enter into contracts, acquire ownership and intellectual property rights and incur obligations in its own name, maintain an independent balance sheet, maintain settlement accounts and other bank accounts, and act as a claimant and defendant in courts and arbitration tribunals. All non-

commercial legal entities are registered with the Ministry of Justice, which is required to effect registration within 40 business days of submission of the necessary documents. Azerbaijani non-commercial organizations are presumed to engage in non-commercial activities.

Forms of non-commercial organizations

Under the Civil Code, non-commercial organizations may be created in any of the following forms: (1) public associations, (2) foundations (funds), and (3) unions of legal entities. There are also other forms, such as professional associations and trade unions.

Public Associations

A public association is a voluntary not-for-profit organization created by individuals or legal entities to engage in activities in their common interest.

A public association's members lose any ownership or other rights to property transferred to the public association, including their membership contributions. They are not responsible for the public association's obligations, in the same way that the public association is not responsible for the obligations of its members.

In the event of the liquidation of a public association, any property remaining after liquidation is allocated for the purposes specified in the charter. Where this is not possible, such property is remitted to the state budget.

Foundations (Funds)

A foundation or fund is a not-for-profit organization created by individuals and/or legal entities to engage in public, charitable, educational and other kinds of social activities. As there is no requirement for a minimum number of founders, an Azerbaijani fund may be created by one individual or legal entity. Moreover, funds are not based on membership, ie, the founders of the fund do not become its members. A fund's founders are not responsible for the fund's

obligations. Similarly, a fund is not responsible for the obligations of its founders.

In 2009, Azerbaijani law introduced a minimum (initial) charter capital requirement of AZN 10,000 (USD 5,882) for Azerbaijani funds.

The management structure of a fund must be established by a charter approved by the founders. The law does not grant the founders the right to participate in the management of the fund through any kind of general meetings. All management decisions are made by the governing bodies established by the charter. If, according to the charter, the governing bodies do not have such right, the fund's charter may be amended only by a court, based on an application of the fund's governing bodies.

A fund may be liquidated only pursuant to a court decision, and in cases established by law. After liquidation, a fund's remaining property must be used for the purposes specified in the charter. If this is impossible, such property must be remitted to the state budget.

Unions of Legal Entities

A union of legal entities is an organization created by business or non-commercial entities to facilitate cooperation and coordination of their entrepreneurial or non-commercial activities, and to represent and protect their common interests. A union is not responsible for the obligations of its corporate members. Corporate members, however, are responsible for the union's obligations to the extent provided under the union's charter.

If, pursuant to a decision of its members, a union of legal entities is to engage in any commercial activity, then such union must either: (1) be reorganized into a commercial company or partnership; or (2) establish or participate in a commercial company.

Branch and representative offices of foreign non-governmental organizations

Pursuant to Law No. 1078-IVQD, dated 17 October 2014, approving amendments to the law On State Registration and the State Register of Legal Entities, foreign non-governmental organizations can establish one branch or representative office in the Republic of Azerbaijan. If a foreign non-governmental organization is separated, acquired by or merges with another entity, or changes its legal form, the branch or representative office of such foreign non-governmental organization in the Republic of Azerbaijan shall be liquidated.

- What is the legal status of public legal entities in Azerbaijan?

Law No. 97-VQ On Public Legal Entities, dated 29 December 2015 "PLE Law") regulates the establishment, operation and organization of public legal entities ("PLEs"). State-owned entities such as State Oil Company of the Azerbaijan Republic (SOCAR) are not covered by the PLE Law.

The PLE Law primarily regulates PLEs established and operating in fields of state and public importance. In particular, medical institutions, orphanages, closed and open types of special educational institutions, pre-school educational institutions, secondary schools, primary vocational schools, specialized secondary schools, higher education institutions, special educational institutions established by the state or municipalities are listed among the types of PLEs subject to the Law. In 2016 and 2017 several state bodies and universities were transformed into PLEs by decrees of the president of the Republic of Azerbaijan.

Under the PLE Law, PLEs are non-state or non-municipal organizations established on behalf of the state and municipality or by a public legal entity with the purpose of engaging in activities of national and (or) public significance. PLEs may engage in commercial activity provided such activity serves and complies with the goals

established at the moment of its formation and set forth in the charter of the PLE.

PLEs are established on behalf of the state by the relevant executive authority specified by the president of the Republic of Azerbaijan (and by the relevant municipal bodies on behalf of the municipality) and obtain the status of a legal entity upon state registration by the Ministry of Taxes of the Republic of Azerbaijan.

The charter capital of PLEs is formed on the account of assets contributed to by its founder(s).

Reorganization and liquidation of a PLE shall be carried out in accordance with its charter and in the manner provided in the law.

Pursuant to Law No. 708-VQD, dated 31 May 2017, approving amendments to the PLE Law, PLEs cannot be declared insolvent.

Subsidiary or dependent company

Regardless of whether it was established in Azerbaijan or elsewhere, a legal entity may form a subsidiary in Azerbaijan in one of the three legal forms available for commercial purposes, eg, JSC, LLC or ALC. A subsidiary is a separate and distinct legal entity; the parent enterprise contributes property to its subsidiary but, typically, is not liable for the obligations of the subsidiary. Exceptions to this rule concern liability to third parties, liability to other (minority) shareholders and liability in bankruptcy. For instance, a parent company may be held liable for the obligations of its subsidiary in bankruptcy if such bankruptcy was caused by the parent company in connection with the execution of its instructions. Additionally, a parent company and its subsidiary are jointly and severally liable for obligations incurred by the latter as a direct result of the implementation of instructions of the former, even if the former is not in bankruptcy. Laws governing specific types of activity, such as banking, could vary these general rules.

As a matter of law, a company is considered a subsidiary if another legal entity, by virtue of a majority shareholding in the company's charter capital or by virtue of an agreement between them, can determine the resolutions adopted by that company.

An LLC or a JSC may be deemed dependent on another company or partnership if the other company or partnership holds more than 20% of the charter capital of an LLC or voting shares of a JSC. A company or partnership acquiring such qualifying ownership must promptly publicize the information on acquisition.

Subsidiaries and dependent companies are not entitled to buy the shares of their parent companies.

- What is the legal regime for related party transactions in Azerbaijan?

Significant amendments were introduced by the law On Amendments to the Civil Code of the Republic of Azerbaijan, dated 15 May 2015, that regulate transactions between legal entities and parties related to them. According to those amendments, any agreement or other related transaction between legal entities and a party related to them (a "Related Party") is considered as a related party transaction.

The following persons are considered as related parties:

1. Heads and members of the board of directors (supervisory board) and executive body of a legal entity;

2. Head of structural units (eg, branches, representative offices, offices, etc.) of a legal entity;

3. Relatives (spouses, parents, including spouses' parents, grandparents, children, adopted children, siblings) of the persons listed under 1 and 2 above;

4. Any person directly or indirectly holding at least 10% of the shares or a 10% participatory interest of the charter capital of the legal entity;

5. Legal entities in which the persons listed under 1, 2 and 4 above directly or indirectly participate;

6. A legal entity holding at least 20% of the shares in the charter capital of the legal entity;

7. Persons holding at least 20% of the shares or a 20% participatory interest in the charter capital of the legal entities listed under 4 and 6 above;

8. The heads of the boards of directors (supervisory board) and executive bodies of the legal entities listed under 4 and 6 above.

Some limitations may apply based on the value of the related party transaction. If the amount of the related party transaction to be entered into with a related party is equal to or exceeds 5% of the total value of the legal entity's assets, such transaction requires the opinion of an independent auditor engaged by the legal entity and a decision adopted at the general meeting of the legal entity's shareholders/participants by a simple majority of votes.

If the amount of the related party transaction is less than 5% of the total value of the legal entity's assets, such transaction can be concluded by a decision of the general meeting of the participants/shareholders of the legal entity, board of directors (supervisory board) or the executive body of the legal entity in accordance with the charter of the legal entity. If the head of the sole executive body of the legal entity, or the persons listed under 3 and 5 above, are acting as the related parties, such transaction can be concluded by a relevant resolution from the board of directors (supervisory board) or, in its absence, by the general meeting of shareholders/participants of the legal entity.

The related party does not have the right to participate in the voting in connection with such transactions.

The conclusion of a transaction in violation of the above threshold requirements will trigger liability for the persons causing damage to the legal entity. Additionally, the transaction may be challenged by the legal entity or any of its participants if a counterparty was aware of the violation when concluding the transaction.

- What is the procedure for liquidation of a legal entity in Azerbaijan?

The liquidation process can be divided into several stages.

The first stage includes adoption of a decision on liquidation by the founder(s) or an authorized body of a legal entity, the establishment of a liquidation commission/liquidator, and the adoption of the liquidation terms and procedure. A maximum of 20 days prior to the adoption of a decision on liquidation, the executive body of a legal entity should adopt a declaration of solvency confirming that the legal entity is capable of repaying the claims of all creditors within 12 months. If an executive body is unable to adopt such a declaration, an independent auditor could be engaged to issue its opinion on the legal entity's solvency.

Within 10 days of its appointment, the liquidation commission/liquidator should publish the first announcement on the liquidation of the legal entity in the official press, indicating the procedure and the term for submitting creditors' claims. This announcement should be published in the same manner two more times at intervals of 15-20 days. The term for submitting creditors' claims should not be less than 60 days following publication of the first announcement on the liquidation of a legal entity.

The liquidation commission/liquidator should submit an application together with the above documents and corporate stamp to the relevant executive body responsible for the state registration of legal entities

within 15 days of its appointment. Information on the liquidation of a legal entity should be entered into the state register within five days after receipt of the application.

The next stage is adoption of necessary measures by the liquidation commission/liquidator to identify the creditors and collect accounts receivable, notification of creditors, application to the responsible state authorities to identify if there are any debts to the state budget or non-budget state funds. The liquidation commission/liquidator prepares an intermediate liquidation balance sheet within 10 days following expiry of the period for submitting creditors' claims, including information on the assets of the legal entity, creditors' claims and accounts receivable.

The liquidation commission/liquidator should then prepare the liquidation balance sheet and a report reflecting the plan for distribution/use of the remaining assets within five days following settlement of all creditors' claims. The liquidation balance sheet and the report should be approved by the founder(s) or authorized body of the legal entity within 45 days from the preparation date.

Further, within 10 days following the approval of the liquidation balance sheet, the liquidation commission/liquidator should ensure distribution/use of the remaining assets in accordance with the approved plan.

The last stage is the liquidation commission's/liquidator's submission of an application to remove the legal entity from the state register, submitted with the required documents to the relevant executive body responsible for the state registration of legal entities within 10 days from the distribution/use of the remaining assets. If the submitted documents are sufficient, the relevant executive body should issue a decision on removal of the legal entity from the state register within seven days.

The liquidation process should not last longer than one year starting from the date of entry of the information on the liquidation of the legal

entity into the state register of legal entities. Failure to complete the liquidation process within a year means that the liquidation process will have to be started again from the beginning.

The above procedure for liquidation of legal entities equally applies to the liquidation (de-registration) of branch and representative offices of foreign legal entitles in Azerbaijan.

4. Securities Market

- What are the primary sources of legislation covering issuance and regulation of securities in Azerbaijan?

The securities market in Azerbaijan is regulated primarily by the provisions of the Civil Code, the new law On Securities Market[6] and regulations adopted by the Financial Market Supervisory Authority of the Republic of Azerbaijan ("FIMSA").

- What are the types and forms of securities?

Under the Civil Code, security is an instrument certifying existence of contractual relations between its holder and issuer and the holder's rights arising from the contract. An issuer is a person that carried out the issue, placement or distribution of securities.

Securities may be issued as registered or bearer securities. In the case of registered securities, certificates bear the name of the holder or their ownership is registered with a central depository. In the case of bearer securities, the issuer must perform obligations to the bearer (person possessing security).

Depending on method of placement, securities may be of two types:

- Investment securities, such as shares and bonds, which are placed through separate issuances and, regardless of the time of their acquisition, have equal rights thereunder within the respective issuances; and
- Non-investment securities, which are placed otherwise and have different rights, such as options, warrants, privatization checks, futures, mortgage certificates, bills of lading, and so on.

[6] Law No. 1284-IVQ of the Republic of Azerbaijan, On Securities Market, dated 15 May 2015 (the "Securities Market Law").

Depending on the physical nature, the Civil Code distinguishes between two forms of securities:

- Documentary (or "certificated"), which are printed in a special manner to exclude fraud risks and in which the rights of holders to securities are established by a paper document. The specific requirements for documentary securities are determined by FIMSA; and
- Non-documentary (or "non-certificated"), where the rights of holders to securities are evidenced by entries made in a deposit account held by a central depositary.

- What is the process for issuing and placing investment securities?

Issuing investment securities involves the following stages:

- Resolution of the issuer's authorized body on the issuance of investment securities;
- Preparation of an issuance prospectus or information memorandum of investment securities (if the investment securities are placed publicly);
- State registration of the issuance of investment securities and issuance of a prospectus or information memorandum (if applicable) with FIMSA;
- Publication of information from the issuance prospectus or information memorandum in the mass media (if the investment securities are placed publicly);
- Placement or start of trade on regulated markets of the investment securities;
- Submission of the report on results of the issuance of the investment securities with FIMSA; and

- Publication in the mass media of the report on results of the issuance of the investment securities (if the investment securities are placed publicly).

The law On Securities Market introduced certain new concepts previously unknown under the Civil Code, such as the information memorandum and the basic emission prospectus. The information memorandum may be drafted instead of the issuance prospectus, where (1) investment securities are offered to and placed among the shareholders of merged entities; (2) investment securities are offered to and placed among the shareholders of divided entities; (3) the value of to-be-issued investment securities is below the value determined by FIMSA (4) total nominal value of the investment securities issued by issuer within one calendar year does not exceed value established by FIMSA; and (5) offering is made to institutional investors.

In addition, the issuer is exempt from drafting issuance prospectus in the following cases:

- issuance of investment securities by state or municipality, Central Bank of the Republic of Azerbaijan or international organizations to which the Republic of Azerbaijan is party;
- issuance of investment securities guaranteed by state;
- price of investment securities offered to each investor is less than the amount established by FIMSA;
- issuance of investment securities serving as substitution to payment of dividends and which do not require any payment from shareholders;
- public offer on regulated markets within one calendar year of investment securities that constitute less than 10% of the issuer's charter capital;
- conversion of investment securities;

- closed placement of investment securities.

A basic emission prospectus is drafted when several issuances of investment securities (except shares) is contemplated within one calendar year. The rules established under the law On Securities Market applicable to issuance prospectuses also apply to basic emission prospectuses.

Placement of investment securities, ie, their transfer from the issuer to initial holder, may be of two types:

- "closed," in which the securities are placed by offering them to less than 50 persons or by indication of purchasing investors in the resolution on issuance of investment securities; or
- "public," in which the securities are placed by offering them to an indefinite number of people or to more than 50 persons by publication in the mass media.

The new detailed disclosure requirements for information contained in issuance prospectuses and information memoranda were established by FIMSA in 2016.

An issuance of investment securities is deemed accomplished upon successful placement of the whole amount of investment securities stated in the issuance prospectus, information memorandum or the resolution on issuance of investment securities.

- What are the main powers and functions of the Financial Market Supervisory Authority as the securities market regulator?

The FIMSA was established under Decree 760 of the president of the Republic of Azerbaijan on 3 February 2016 with the goal of improving licensing, regulation and supervision of:

- securities market;

- investment funds;
- insurance;
- credit organizations (banks, non-bank credit organization and postal operator);
- payment systems operations.

In addition, FIMSA is empowered to improve a system for the prevention of legalization of criminally obtained funds and other property, and financing of terrorism.

FIMSA's objectives include the following:

- participation in the formation of policy in the financial markets;
- macro-prudential control;
- participation in the preparation of drafts of relevant legal and normative acts related to the regulation of the financial markets;
- licensing in the financial markets;
- realization of control in the financial markets, and execution of state inspections;
- supervision over the prevention of legalization of criminally obtained funds or other property and financing of terrorism;
- provision of control systems in the field of deposit insurance.

- What professional participants are there on the Azerbaijani securities market?

Professional participants in securities markets include investment companies, stock exchanges, clearing agencies, investment fund depositaries and a central depositary. They must be created in the form of joint stock companies and are subject to licensing (except for the central depositary).

Licenses are issued for an indefinite term. The licensing process includes two stages:

1. consideration of preliminary application filed by the person authorized by the founders;
2. consideration of final application upon state registration of the applicant entity.

Investment Company

An investment company is a joint stock company that has a license and whose primary activity consists of rendering primary and auxiliary investment services. Investment companies must be issued a single license for activities, including those of a broker, dealer and underwriter.

Primary investment services include the following:

- acceptance and execution of clients' orders in relation to transactions with securities or derivative financial instruments;
- management of individual investment portfolios;
- provision of investment advice;
- placement and underwriting of securities (with and without an underwriting commitment);

- transactions with securities and derivative financial instruments for their own account as a member of a depository or stock exchange;
- margin trading.

Auxiliary investment services include the following:

- management of clients' securities accounts, including execution of transactions related to encumbrance of securities and derivative financial instruments;
- lending of funds or securities to investors for trading with securities and derivative financial instruments;
- conduct of investment and financial analysis related to securities and derivative financial instruments;
- acting as a security trustee for secured bonds;
- foreign exchange activities in relation to conducting primary investment services.

With the adoption of the law On Securities Market, investment companies replaced the previous members of the stock exchange - brokers and dealers.

Stock Exchange

A stock exchange organizes public sale of securities and derivative financial instruments. A stock exchange can be formed as an open or closed joint stock company and must hold a license issued by FIMSA. Its primary activity includes organization and administration of regulated markets.

The stock exchange must adopt internal regulations such as, eg, trading regulations of securities and derivatives; terms and procedures of trading, trading halt and exclusion from trading of securities and derivatives; listing and delisting requirements; rules of entering into

deeds and their termination at the stock exchange; rules of price determination of securities and derivatives at the stock exchange; rules of trading days and trading hours at the stock exchange; etc.

The stock exchange must have at least three members holding valid licenses and complying with the internal regulations of the stock exchange.

The Baku Stock Exchange was established at the end of December 1999; its shareholders include banks and investment companies.

Clearing Agency

A clearing agency can be established as an open or closed joint stock company and must hold a license issued by FIMSA. The unique activity of the clearing agency includes the collection, examination, comparison of information, netting of positions, reversion of obligations, change of claims for determination of mutual obligations in transactions concerning securities and derivative financial instruments. The clearing agency must have at least three members, and only investment companies and banks can be members of the clearing agency.

The clearing agency must adopt internal regulations such as, eg, rules on operations relating to clearing activity; rules on requirements for members of a clearing agency; rules on security and effectiveness; rules on exchange of information for clearing activity; etc.

Central Depository

The central depository is a non-commercial entity established by FIMSA. The main obligations of the central depository include the maintenance and registration (recordation) of securities, record keeping of accounts of securities holders, registration of securities holders and registration of encumbrances of securities, and grant of extracts from accounts to clients. The central depository may engage in clearing activity without a license.

The depositories of investment companies and investment funds may become members of the central depository.

The National Depositary Center, a state-owned closed joint stock company established in 1997, is a licensed public registrar for the Azerbaijani securities market.

- What constitutes inside information in Azerbaijan?

Under the Securities Market Law, insider information is undisclosed information of exact nature, which has a direct or indirect relation to one or several issuers, securities or derivative financial instruments that can significantly affect the value of securities or derivative financial instruments in the event of its disclosure.

- Who can be an insider in Azerbaijan?

The following persons are considered insiders:

1. members of the issuer's corporate bodies and audit committee;
2. beneficiaries;
3. a person who has an opportunity to obtain insider information due to the position held, on the basis of a contract or the grant of such right by the issuer or another insider;
4. a person exercising powers of the issuer's executive body on a contractual basis;
5. a person, who directly or indirectly, owns a stake of 10% or more of the authorized capital of the issuer;
6. a person who received insider information illegally;
7. close relatives of persons specified in 1-5 above, such as a husband or wife, parents, grandparents, children,

adopted children, and brothers and sisters of a husband or wife.

- What are the obligations of insiders in Azerbaijan?

Insiders cannot do the following:

- carry out purchase and sale of securities or derivative financial instruments directly or indirectly with the use of insider information for their own account or at the expense of other persons or to make attempts to conclude such transactions;
- transfer insider information to other persons, except for cases of disclosure of insider information in connection with the performance of official duties;
- incite or recommend to others to buy or sell securities on the basis of insider information.

- What are the penalties for violating the securities market rules?

Violation of the securities market rules leads to civil, administrative and criminal liability.

Administrative penalties include financial fines imposed on the responsible officers and legal entities.

Criminal liability for crimes committed on the securities market may include the following penalties:

- financial fine;
- disqualification;
- correctional works;
- imprisonment;

5. Competition Law

- What are the main sources of competition law in Azerbaijan?

The main sources of competition law in Azerbaijan are the Law On Antimonopoly Activity, dated 4 March 1993 (the "Antimonopoly Law"), the Law On Unfair Competition, dated 2 June 1995 (the "Unfair Competition Law") and the Law On Natural Monopolies, dated 15 December 1998 (the "Natural Monopolies Law").

Although a draft comprehensive competition code has been on the floor of the Azerbaijani Parliament for several years, the prospects of its adoption are unclear.

The state authority carrying out supervisory functions in the competition area is the State Service for Antimonopoly Policy and Protection of Consumers' Rights under the Ministry of Economy of the Republic of Azerbaijan (the "Antimonopoly Service")

- How are mergers regulated under the Azerbaijani competition law?

The Antimonopoly Law provides that the Antimonopoly Service shall control mergers and acquisitions which may lead to the establishment of economic entities holding more than 35% shares in the relevant market.

Moreover, mergers and acquisitions of economic entities with combined assets valued at more than 75,000 minimum monthly wages (as of 1 January 2018, minimum monthly wage = AZN 130 (approximately EUR 62/USD 76). In addition, acquisitions of more than 20% of the voting shares in a company's charter capital require clearance from the state authorities as well. The notification obligation is triggered only where (i) one of the parties holds more than 35% shares in the relevant market, (ii) the parties' combined assets located in Azerbaijan are valued at more than 75,000 minimum monthly

wages or (iii) when the "purchasing" party already controls the "seller" party.

- What is a dominant market position and its abuse?

The Antimonopoly Law defines a dominant market position as an exceptional position of an economic entity enabling it to significantly influence competition by using its economic superiority and, thus, impede other economic entities from entering the market. An economic entity with a market share of more than 35% or another threshold determined by law is considered to be a dominant market participant, along with the establishment of barriers for entering and exiting market for other market participants, discrimination in terms of standard agreements with different market participants, etc.

Any act affecting or threatening to affect competition negatively or violating consumers' rights may potentially be interpreted as abuse of a dominant position. Such acts include price manipulation, creation of artificial shortage of products, etc.

- What are the types of unfair competition?

The Unfair Competition Law distinguishes between the following types of unfair competition:

1. Imitating the economic operation of a competitor;
2. Discrediting the economic operation of a competitor;
3. Interfering in the economic operation of a competitor;
4. Unfair entrepreneurial activities;
5. Unfair businesses practices; and
6. Misleading consumers.

- What are the general rules applicable to public procurement?

Public procurement issues are governed by the Law of the Republic of Azerbaijan On Public Procurement, dated 27 December 2001 ("Public Procurement Law").

The Public Procurement Law only applies to state enterprises and organizations (departments), as well as to enterprises in the charter capital of which the state owns a share of 30% or more when such enterprises procure goods, works and services by state funds, or loans or grants obtained or guaranteed by the state.

The Public Procurement Law distinguishes between the following types of public procurement:

1. open tender;
2. two-staged tender;
3. limited attendance and closed tenders;
4. bid inquiry;
5. quotation inquiry;
6. procurement from a single source.

Except for open tender, the other procurement methods can only be applied in specific circumstances set forth by the Public Procurement Law.

If the estimated price of the goods, works and services is higher than that determined by the relevant state authority, the procuring entity shall use the open tender method.

Moreover, in limited circumstances, the procuring entity may use the single source method for the purposes of the Public Procurement Law. In the following circumstances, the procuring entity may use the

procurement from a single source by obtaining prior consent of the relevant state authority:

- the procured goods, works and services can be provided only by a certain supplier or a certain supplier enjoys exclusive rights over the goods, works and services and there is no alternative or replacement for those goods, works and services;
- there is an urgent need for the goods, works and services and conducting the full procurement proceedings is not advisable. The procuring entity shall prove that the urgency could not have been predicted and was not the fault of the procuring entity;
- there is an urgent need for the goods, works and services due to an emergency and conducting the full procurement proceedings is not advisable;
- after procuring certain goods, equipment, technology or services from a supplier, the procuring entity decides to procure the same goods, equipment, technology or services from that same supplier due to standardization considerations or conformity with the equipment, technology or services.

- What is the liability for infringement of the competition law and its extent?

The Antimonopoly Law and the Unfair Competition Law contain several sanctions for violating the competition law. Those sanctions include financial penalties, mandatory instructions to rectify the adverse effect on competition, compensation of damages and dissolution of the legal entity.

Moreover, violation of the competition laws may result in criminal liability. As such, Article 199 of the Criminal Code of the Republic of Azerbaijan, effective as of 1 September 2000, provides that a cartel

agreement, as well as creation of market hindrances which prevent, eliminate or restrict or which may prevent, eliminate or restrict competition, usage of restrictive activities or execution of other monopolistic actions shall be punished by a fine of up to twice the damage caused (or profit obtained) and prohibition against holding certain positions or engagement in certain activities for two years, or imprisonment for up to three years with or without a prohibition against holding certain positions or engagement in certain activities for two years. The same actions may result in a more severe punishment in aggravated circumstances, such as when the actions are committed by an organized criminal group or when they resulted in significant damages.

6. Corporate Compliance

- What are the key provisions of anti-bribery laws in Azerbaijan?

The Law of the Republic of Azerbaijan, On Combatting Corruption, dated 13 January 2004 (the "Anti-Corruption Law"), and the Criminal Code of the Republic of Azerbaijan, effective on 1 September 2000 (the "Criminal Code"), are the principal laws in Azerbaijan intended to prevent and detect offenses related to corruption.

Under the Anti-Corruption Law, corruption is defined as officials illicitly obtaining material and other benefits, privileges and advantages through the use of their position, the status of the body they represent, their official powers, or the opportunities deriving from those statuses and powers. Corruption also includes the engagement of those officials by individuals or entities through the illicit offering, promising or giving of the said material and other benefits, privileges and advantages.

The Anti-Corruption Law lists the acts that are considered corruption as well as those that lead to corruption. The Anti-Corruption Law also governs other issues, such as the circumstances in which an official is authorized to accept gifts, financial disclosure by officials and the like.

Both active and passive bribery are criminal offenses in Azerbaijan. It is noteworthy that Azerbaijani law does not distinguish between public sector and commercial bribery; offering a benefit to officers of commercial entities or their acceptance of a benefit in exchange for the performance or non- performance of official duties may constitute active or passive bribery.

The Anti-Corruption Law lists individuals who could be "subjects" of corruption offenses: public officials, such as persons elected or appointed to a government position in accordance with the Azerbaijani Constitution or Azerbaijani laws, persons representing state bodies based on special authorities, persons occupying

managerial or administrative positions in government agencies, government entities, commercial legal entities in which the state owns the majority of shares, managers of commercial and non-commercial organizations, persons engaged in business without establishing an entity, officials of foreign state agencies and international organizations, etc.

- What liability does a legal entity incur for corrupt conduct?

Legal entities may be subject to the following penalties for corrupt conduct:

  - financial fine;
  - prohibited from engaging in certain activities;
  - dissolved; or
  - made subject to special confiscation.

Section 11.2 of the Anti-Corruption Law further provides that legal persons may also be fined if they are found guilty of corruption.

- What are the major types of criminal offenses for corrupt conduct?

The Criminal Code defines "passive bribery" as the solicitation or acceptance, directly or indirectly, by a public official of a material or other benefit, privilege or undue advantage for himself/herself or others in consideration for acting or refraining from acting, or providing patronage when exercising official duties.

"Active bribery" is defined in the Criminal Code as an offer, assurance or gift of a material or other benefit, privilege or undue advantage for himself/herself or others, directly or indirectly, to a public official for himself/herself or others in consideration for acting or refraining from acting when exercising official duties.

7. Licenses

- How are the activities requiring licenses and permits regulated in Azerbaijan?

Activities requiring licenses are stipulated by the newly adopted Law on Licenses and Permits of the Republic of Azerbaijan, dated 15 March 2016 ("the Law"), which abrogates previous rules, provides a simplified licensing procedure, shortens the list of licensable activities from 37 to 29 and introduces 86 other activity types requiring state permits. The Law unifies the licensing rules for all types of licenses and permits and specifies: (a) the business activities subject to licensing; (b) the licensing authorities; and (c) the procedures for issuing licenses and permits. Additionally, Presidential Decree No. 310 dated 28 March 2000 establishes certain limits and exceptions to the general licensing rules.

Licenses and permits may be granted to Azerbaijani citizens and legal entities, as well as to the branches and representative offices of foreign legal entities and foreign citizens. An international agreement may recognize a license obtained by a foreign entity in its home country. Licenses and permits are granted without discrimination to any entity that satisfies the requirements for the specific license or permit. Thus (with certain exceptions), foreign investors may obtain licenses and permits under the same conditions and in accordance with the same procedures as Azerbaijani nationals.

A license or permit holder cannot transfer a license or permit to another legal entity or individual unless otherwise provided for by law.

A license is issued for an unlimited period of time, except for licenses for cellular (mobile) communications services, which are issued for 10 years. A permit is normally issued for an unlimited period of time, unless otherwise provided in the legislation. Moreover, all licenses effective as of 1 June 2016 (the date on which the Law entered into force) are deemed to be issued for an unlimited period.

- What authorities issue licenses and permits in Azerbaijan?

The issuance, suspension, restoration and liquidation of licenses and permits is principally regulated by the Law, which sets out, among other things, the procedure for obtaining licenses and permits and the list of activities requiring a license or a permit. According to the Law, the Azerbaijani Ministry of Economy issues all types of business licenses (except for licenses in fields related to state security). It also directs the Azerbaijani Ministry of the Economy to exercise overall control of business licensing in Azerbaijan and to maintain a unified state register of licenses. Permits are issued by the state authorities responsible for the fields of activities for which such permits are required.

According to the Law, licenses and permits can also be applied for and obtained electronically, ie, through the License and Permits Electronic Portal. Thus, all licenses (except for those in fields related to state security) are granted by the Ministry of the Economy at the State Agency for Public Service and Social Innovations under the President of the Republic of Azerbaijan ("ASAN Service") or by the Electronic License and Permits internet portal. Permits are granted by the state authorities responsible for the respective field of activity for which the permit is required or by the Electronic License and Permits internet portal.

- What is the list of licensed activities in Azerbaijan?

Table 2 contains a partial list of licensed activities and the government agencies responsible for issuing licenses. As the Law does not apply to the licensing of business activities in the financial markets, this is not addressed in Table 2.

Table 2: Licensing of Activities

Type of Activity	Executive Agency
Utilization and neutralization of industrial toxic waste	Ministry of Economy
Collection of raw material of wild medicinal plants	Ministry of Economy
Private medical activity	Ministry of Economy
Pharmaceutical activity (production. wholesale and retail sale of medicine)	Ministry of Economy
Production, import, export and transit of precursors	Ministry of Economy
Educational activity	Ministry of Economy
Communication activity	Ministry of Economy
Television and radio broadcasting	Ministry of Economy
Manufacture of various stamps and seals	Ministry of Economy
Fire safety activity	Ministry of Economy
Diagnostics and other technical inspections of equipment and facilities operated at potentially hazardous objects	Ministry of Economy
Engineering and exploration works of building and facilities subject to construction permits	Ministry of Economy
Construction and installation works of building and facilities subject to construction permits	Ministry of Economy

Type of Activity	Executive Agency
Planning of buildings and facilities subject to construction permits and notification requirements	Ministry of Economy
Installation and repair of lifting devices, metallurgical equipment, boiler rooms and containers operating under pressure	Ministry of Economy
Private security activity	Ministry of National Security (in certain cases) or Ministry of Internal Affairs
Activity in the field of design and production of devices for protection of information	Ministry of Transportation, Communication and High Technologies
Establishment of biometric technologies and maintenance of such technologies	Ministry of Transportation, Communication and High Technologies
Formation and maintenance of personal data information resources and establishment of information systems	Ministry of Transportation, Communication and High Technologies

- What is the procedure for applying for, suspending and terminating a license or permit in Azerbaijan?

Application for a License (Permit)

The Law approves business licensing rules in Azerbaijan. In particular, an applicant must submit all documents specified in The Law and other applicable regulations, and pay the required state fee, after which (subject to fulfilment of all application requirements) a license is issued within 10 business days for an unlimited duration and

a permit is issued within seven business days - also for an unlimited duration if there are no other statutory rules applicable to that permit.

Under the new rules, during the process of reviewing a license and a permit application, the issuing authority reserves the right to obtain an opinion from the relevant state body, as well as to engage experts or specialists for the purposes of investigating applications and obtaining a qualified opinion. If implementation of the licensed activity is related to certain facilities, the issuing authority must conduct an onsite assessment of the conformity of such facilities to the information reflected in the documents enclosed with the license application.

Suspension and Termination of a License (Permit)

An issued license (permit) may be suspended in the following cases:

- by the license (permit) holder's application;
- if the license or permit holder is found not to comply with the requirements of the respective supervising or license/permit issuing authority; and
- other cases specified by law.

An issued license (permit) may be terminated in the following cases:

- at the voluntary decision of the license holder;
- if the period of the permit expires;
- by court order;
- upon liquidation of the legal entity or branch or representative office of a foreign legal entity, or upon suspension of the individual license holder's entrepreneurial activity;

- if incorrect information is revealed in the application documents; and
- other cases specified by law.

- What are the consequences of operating without an appropriate license?

The penalties for operating without a license may be severe, and an individual or entity may be held liable under the Code on Administrative Offenses and the Criminal Code.

8. Taxation

- What are the main Azerbaijani legislative acts regulating taxes?

The basis of the Azerbaijani tax system was first established with the adoption of the Law on the Fundamentals of the Economic Independence of the Republic of Azerbaijan dated 25 May 1991. The system has since undergone further development; following almost three years of parliamentary and government review, the first codified digest of Azerbaijani tax legislation, the Tax Code (the "Tax Code"), was adopted on 11 July 2000. The Tax Code superseded most of the tax legislation preceding it.

The Tax Code is divided into two main parts: General and Special. The General Part describes the tax system, lists defined terms used in the Tax Code, discusses the powers and duties of the tax authorities, provides penalties for noncompliance with tax laws, sets out the procedural rules for taxpayers to appeal actions taken by the tax authorities and addresses general issues of tax payment and collection. The Special Part of the Tax Code deals with each of the taxes imposed by the Tax Code: income tax of individuals, profit (corporate income) tax, value added tax ("VAT"), excise, property tax, land tax, highway tax, subsoil use tax and simplified tax ("ST").

- Who controls the collection of taxes?

The collection of taxes is administered by the Ministry of Taxes and its divisions. Accordingly, tax control is exercised by the Ministry of Taxes. In certain cases, where a determination must be made as to the appropriate payment of customs duties, tax control is also exercised by customs authorities.

All Azerbaijani enterprises, representative offices, branches and individuals engaged in business activities, as well as foreign entities and individuals conducting business activity in Azerbaijan through a "permanent establishment" ("PE"), and in certain other cases specified

under the Tax Code, must inform the tax authorities of whether or not their activities are taxable in Azerbaijan.

Pursuant to the last amendments to the Tax Code (the Law On Amendments to the Tax Code of the Republic of Azerbaijan dated 16 December 2016), taxpayers can now seek and obtain formal advance tax rulings from the tax authority on specific transactions, which will bring certainty to their tax planning as well as substantial mitigation and even avoidance of potential tax sanctions. The new additions also make electronic audits possible, which are realized through direct or remote access to the financial (accounting) information of taxpayers.

The tax amendments also oblige financial institutions to exchange their clients' financial information with the tax authority.

- What are the main recent changes in the Azerbaijani tax system?

Under the amendments to the Tax Code made in October 2015, the right to leave the country may be limited to ensure payment of tax debts and interest, as well as financial sanctions imposed due to a breach of the tax legislation. This limitation is applied to individuals as well as managers of legal entities.

The Presidential Decree on Additional Measures to Promote Investment considers the relevant tax and customs incentives for investors that are included in the Tax Code and Law No 687-IVQ of the Republic of Azerbaijan on Customs Tariffs dated 13 June 2013 (the Law on Customs Tariffs) from 19 January 2016. The amendments to the Tax Code introduce a seven-year exemption from paying 50% of the income/profit tax and a full exemption from property tax and land tax, whereas, under the amendments to the Tax Code and the amendments to the Law on Customs Tariffs, investment certificate holders will be exempt for seven years from paying customs duties and value added tax on machinery, technological equipment and devices imported for investment purposes in priority industries.

- What types of tax comprise the Azerbaijani tax system?

Further to the provisions of the Constitution, the Tax Code stipulates a three-level tax system, with state taxes levied at the first level, taxes of the Nakhchivan Autonomous Republic within Azerbaijan at the second, and local or municipal taxes at the third. Taxes listed in the Tax Code are levied at the state or autonomous republic level or at the state/autonomous republic level and municipal level.

Taxes levied at the state level consist of all taxes listed in the Special Part of the Tax Code, with the exception of land (excluding agricultural lands used for their intended purpose under a certificate issued by the relevant executive authority, as well as the same lands the use of which is not possible due to irrigation, melioration or other agro-technical reasons), property taxes payable by individuals, subsoil use taxes (only applicable to minerals consumed at the local level) and profit taxes of enterprises owned by municipalities whose liabilities are payable at the local level. Taxes levied at the second level include all taxes listed in the Special Part of the Tax Code and payable in the Nakhchivan Autonomous Republic. Municipal taxes include land and property taxes payable by individuals, subsoil use taxes (only applicable to minerals consumed at the local level) and profit taxes of entities owned by municipalities. Other obligatory payments that are payable at the municipal level are determined by acts adopted at the state level.

- What types of tax audits do Azerbaijani tax authorities conduct?

Pursuant to the Tax Code, a tax audit may be carried out in the following forms: (i) cameral audits; and (ii) on-site audits.

The Ministry of Taxes is now required to ensure that on-site and off-tax audits are performed within short periods of time and in compliance with legislation. It must also extend the coverage of electronic tax audits to limit face-to-face contact with taxpayers.

The recent amendments to the Tax Code introduce the e-audit, which is debuting in the tax system of the Republic of Azerbaijan. The rules on carrying out an e-audit shall be approved by the relevant executive body. Moreover, the implementation of the tax avoidance mechanism and pricing would have a certain impact on the tax audit process in general.

A cameral audit is carried out without site visitation, using documents related to the calculation and payment of taxes as well as information from a known source in the tax authorities' offices. A cameral audit is conducted within 30 business days upon submission of the relevant documents by a taxpayer.

On-site audits are carried out based on the decisions of the tax authority. There are two types of on-site tax audits: (i) ordinary (planned); and (ii) extraordinary (unplanned).

The tax authorities provide a taxpayer, within 15 days prior to the start of an ordinary on-site tax audit, with a written notification that reflects the basis for and date of the on-site tax audit, as well as the rights and obligations of the taxpayer and the tax authorities. Ordinary on-site tax audits may not be carried out for more than 30 days. In exceptional cases, this period may be extended to 90 days upon a decision from the tax authorities. On-site tax audits shall be conducted on business days and during the taxpayer's business hours.

- What transfer pricing rules does Azerbaijan apply?

The adoption of the Tax Code introduced several detailed tests with regard to transfer pricing. While the presumption was that for tax assessment purposes the price agreed to by the parties to a contract was the market price, there were exceptions under which the tax authorities may exercise control over the contract price. Specifically, such control was considered in barter or import-export transactions, transactions between affiliated parties (as defined by the Tax Code), price fluctuations of more than 30% in transactions involving similar or identical goods, work, or services within 30 days, or where the

assets of an enterprise are insured for a value exceeding their residual value.

The last amendments to the Tax Code introduced a new Article 14-1 to the Tax Code to govern transfer pricing rules. The article sets out five methods of determining transfer pricing and provides a list of transactions where transfer pricing would be applied during the calculation of taxes.

The transfer pricing rules only apply to transactions above AZN 500,000 (approximately USD 294,100) and only to the transactions between the following parties:

- residents of the Republic of Azerbaijan and related non-residents;
- permanent establishments of non-residents of the Republic of Azerbaijan and the non-resident itself or its any permanent establishments in other countries;
- residents or permanent establishments of non-residents in the Republic of Azerbaijan and parties registered in countries determined to be tax heavens.

The same factors considered for the market price determination are used during the transfer pricing application. When prices applied to goods (works, services) of a taxpayer during the operations between the abovementioned parties are less than the lowest limit of prices formed between other parties under the same conditions, the taxes are calculated on the basis of transfer prices. At the same time, if the price of purchased goods (works, services) is more than the price formed between other parties under the same conditions and the value of these goods (works, services) is included in the expenses deducted from the profit, the value thereof is related to deductible expenses with the transfer price and taxes are recalculated.

Official information sources on exchange quotation, information submitted to the Ministry of Taxes by taxpayers, reports obtained through publicly available sources and other information are used for determining the transfer prices of goods (works, services).

- What is the standard Azerbaijani corporate profits tax rate?

Azerbaijani legal entities are subject to a corporate income (profit) tax of 20% on their worldwide income. Certain types of payments due to such entities are taxed at the source of payment. For instance, dividends paid by resident enterprises (as defined in the Tax Code) and interest payable by a resident or permanent establishment or on behalf of a permanent establishment (except for interest payable to banks and leasing institutions in Azerbaijan) are subject to a 10% tax withheld at the source of payment. Enterprises that are not required to register for VAT purposes and whose taxable operations for all months during a consecutive 12-month period amount to AZN 200,000 or less may be subject to the ST, which is levied on the gross proceeds of a business and applied at a lower rate.

Foreign legal entities operating in Azerbaijan are also subject to a 20% corporate income tax on profits earned through their permanent establishments in Azerbaijan. Foreign legal entities are likewise subject to income tax withheld on dividends and interest (except for interest payable to non-resident banks and permanent establishments of leasing institutions) at a rate of 10%, whether or not such income was obtained through a permanent establishment.

Similarly, tax is withheld from the income of a foreign entity obtained from a source in Azerbaijan other than its permanent establishment. Such income is typically subject to 10% withholding tax ("WHT"), with communication and freight fees subject to 6% WHT, insurance premiums subject to 4% WHT, and rent and royalties subject to 14% WHT. All direct and indirect payments made to offshore (tax heaven) entities by resident entities and permanent establishments of non-resident entities will be subject to 10% WHT. 10% WHT is also

applied to any transfers to non-resident web (bitcoin) wallets through the local banks processing such payments. At the same time, local banks must withhold 1% tax from cash withdrawals made by resident entities and individual entrepreneurs.

The tax base for resident enterprises and permanent establishments is gross annual income less allowable deductions. The aggregate annual income of a resident taxpayer includes all incomes irrespective of source. The income of a non-resident taxpayer consists only of Azerbaijani source income.

Deductions include all expenses connected with deriving income, including mandatory payments, bad debts and depreciation. Deductions for business trips (the part of expenses exceeding the limits set by the Cabinet of Ministers of Azerbaijan), entertainment and certain other expenses may be limited. Non-residents may generally make deductions only for such items of income obtained through their permanent establishments.

- How many double taxation treaties has Azerbaijan signed and ratified as of 1 January 2017?

Azerbaijan has entered into and implemented bilateral treaties for the avoidance of double taxation with 53 countries. These countries are listed in Table 3 below. As may be gleaned from the table, treaties with Jordan, Spain, Denmark and Israel have been signed by the parties and await their ratification by the Parliament of the Republic of Azerbaijan.

Table 3: Double Taxation Treaties

	Country	Date of Ratification by Azerbaijan	Date of Implementation	Dividends (not higher than) (%)	Interest (not higher than) (%)	Royalties (not higher than) (%)
1.	Great Britain	29 September 1995	18 October 1991	10/15	10	5/10

	Country	Date of Ratification by Azerbaijan	Date of Implementation	Dividends (not higher than) (%)	Interest (not higher than) (%)	Royalties (not higher than) (%)
2.	Norway	25 June 1996	1 January 1997	10	10	10
3.	Pakistan	25 June 1996	1 January 1998	10	10	10
4.	Uzbekistan	16 July 1996	1 January 1997	10	10	10
5.	Kazakhstan	15 November 1996	1 January 1998	10	10	10
6.	Turkey	27 December 1996	1 January 1998	12	10	10
7.	Georgia	15 April 1997	1 January 1998	10	10	10
8.	Poland	13 February 1998	1 January 2006	10	10	10
9.	Russia	10 April 1998	1 January 1999	10	10	10
10.	Moldova	8 December 1998	1 January 2000	8/15	10	10
11.	Ukraine	24 March 2000	1 January 2001	10	10	10
12.	Austria	24 October 2000	1 January 2002	5/10/15	10	5/10
13.	Belarus	1 February 2002	1 January 2003	15	10	10
14.	France	19 February 2002	1 January 2006	10	10	5/10
15.	Romania	5 December 2003	1 January 2005	5/10	8	10
16.	Lithuania	10 September 2004	1 January 2005	5/10	10	10
17.	Belgium	26 October 2004	1 January 2007	5/10/15	10	5/10
18.	Italy	26 October 2004	1 January 2011	10	10	5/10
19.	Germany	1 March 2005	1 January 2006	5/15	10	10/5
20.	China	14 June 2005	1 January 2006	10	10	10
21.	Canada	30 December 2005	1 January 2007	15	10	0/10
22.	Latvia	1 March 2006	1 January 2007	5/10	10	5/10

	Country	Date of Ratification by Azerbaijan	Date of Implementation	Dividends (not higher than) (%)	Interest (not higher than) (%)	Royalties (not higher than) (%)
23.	Czech Republic	1 March 2006	1 January 2007	8	10	10
24.	Finland	21 April 2006	1 January 2007	5/10	10	5/10
25.	Luxembourg	2 October 2006	2 July 2009	5/10	10	5/10
26.	Switzerland	10 April 2007	1 January 2008	5/15	10	5/10
27.	UAE	10 April 2007	25 July 2007	5/10	7	5/10
28.	Qatar	19 October 2007	11 March 2008	7	7	5
29.	Tajikistan	19 October 2007	23 October 2007	10	10	10
30.	Estonia	18 December 2007	27 November 2008	5/10	10	10
31.	Bulgaria	1 April 2008	25 November 2008	8	7	5/10
32.	Japan	1 April 2008	28 December 1991	15	10	0/10
33.	South Korea	18 May 2008	1 January 2009	7	10	5/10
34.	Hungary	13 June 2008	15 December 2008	8	8	8
35.	Jordan*	N/A	N/A	N/A	N/A	N/A
36.	Netherlands	16 December 2008	18 December 2009	5/10	10	5/10
37.	Greece	3 April 2009	1 January 2011	8	8	8
38.	Kuwait	0 April, 2012	1 January 2013	7	10	5/10
39.	Iran	28 April 2009	1 January 2011	10	10	10
40.	Serbia	30 September 2010	1 January 2011	10	10	10
41.	Slovenia	30 September 2011	1 January 2013	8	8	5/10
42.	Croatia	22 May 2012	1 January 2014	5/10	10	10
43.	Macedonia	21 June 2013	1 January 2014	8	8	8
44.	Montenegro	24 May 2013	1 January 2014	10	10	10

	Country	Date of Ratification by Azerbaijan	Date of Implementation	Dividends (not higher than) (%)	Interest (not higher than) (%)	Royalties (not higher than) (%)
45.	Bosnia & Herzegovina*	28 December 2012	1 January 2014	10	10	10
46.	Spain*	N/A	N/A	N/A	N/A	N/A
47.	Saudi Arabia	30 September 2014	1 January 2016	5/7	7	10
48.	Vietnam	11 November 2014	1 January 2015	10	10	10
49.	San Marino	2 May 2016	1 January 2017	5/10	10	5/10
50.	Sweden	30 September 2016	1 January 2017	5/15	8	5/10
51.	Malta	30 September 2016	27 December 2016	8	8	8
52.	Denmark*	N/A	N/A	N/A	N/A	N/A
53.	Israel	N/A	N/A	15	10	5/10

* The text of the agreement is not available.

- Does Azerbaijan apply value added tax ("VAT")?

VAT is imposed on the turnover of most goods, work and services in Azerbaijan, and on the importation of goods. VAT is charged by the seller of goods, the provider of services or, in the case of imported goods, by customs officials. Input VAT, payable by a taxpayer for purchased goods, work and services, as well as for the importation of goods into Azerbaijan, represents a business expense and may be offset against output VAT collectable by a business from selling its own goods, work and services. The VAT rate is 18% of the price of the goods, work and services or of the customs value of the goods.

Separate VAT registration is required under the Tax Code. The Tax Code also includes a reverse-charge VAT collectable by Azerbaijani tax residents, acting in the capacity of tax agents, when non-residents that are not required to register as VAT payers in Azerbaijan render services or work subject to local VAT. A VAT deposit single treasury

account was introduced in 2008 to improve VAT administration and prevent abuses with VAT offsets and remittances.

Import and turnover of certain goods (as well as work and services for certain purposes) are exempt from VAT, which means the refund of certain input VAT in the chain is not allowed. Financial services are an example of such an exemption. Certain other transactions are zero-rated, which is essentially an exemption with credit giving rise to the recovery of input VAT. The export of goods is an example of a zero-rated transaction.

The recent amendments to the Tax Code made in 2016 introduced the free-VAT concept for goods that are not for production or commercial purposes. Thus, any VAT paid for the abovementioned goods by foreign nationals and stateless persons will be paid back in accordance with the legislation.

The last amendments to the Tax Code also provided for certain VAT exemptions, such as three years' exemption for the sale of poultry and sale of toxic assets of insolvent banks. Moreover, now VAT will only apply to the retailer's margin rather than to the whole price of a locally produced agricultural product.

Under these recent amendments, the online provision of works and services will also be subject to VAT. Such VAT must be discharged by registered taxpayers or by banks if the buyer of the respective works or services is not a registered taxpayer.

- What are the main specifics of the special tax regime used by participants to production sharing agreements?

The Tax Code also recognizes the existence of special tax regimes, distinct from those described above. Such regimes are, by and large, applicable to contracting and subcontracting parties in oil and gas production sharing agreements ("PSAs"). While tax regimes applicable under PSAs differ individually, they generally provide for

lower withholding tax rates, exemption from VAT, and simplified reporting and accounting procedures.

- What are the main specifics of property taxation in Azerbaijan?

Property tax is assessed annually on the book value of fixed assets maintained by a resident or non-resident enterprise. Property tax is also levied on both resident and non-resident individuals owning properties in Azerbaijan. Rates differ depending on the type of asset and its value.

- Does Azerbaijan apply any social insurance payments?

All employers in Azerbaijan are required to make contributions to the State Social Protection Fund on the salaries and other qualifying income of their employees, including foreign employees (except foreign employees of companies operating under certain production sharing agreements or similar agreements, a list of which is set in law). The amount is based on the qualifying gross income paid to employees and is assessed at a general rate of 22%, payable by the employer at its own expense. Employees are also obliged to contribute, with employers withholding 3% of their qualifying gross income for this purpose.

Individuals working under service and similar agreements, and certain other categories of individuals, are subject to social tax at different rates (depending on the location in Azerbaijan where such persons are engaged in business, the type of business conducted, etc.).

- What are the main specifics of individual income taxation in Azerbaijan?

Individual income is taxed progressively, and employers are obliged to withhold income tax from employees' salaries as well as from certain other kinds of monetary and other compensation. The effective progressive tax rate ranges from 0% for certain exempt income up to 25% for those in the highest tax bracket. Individuals who carry out

their business activities without creating a legal entity (ie, individual entrepreneurs) are subject to 20% income tax. Residents of Azerbaijan are obliged to pay income tax on worldwide income, while non-residents are taxed only on income originating from sources in Azerbaijan. Different tax rates may apply to individuals engaged in entrepreneurship.

- What other taxes apply in Azerbaijan?

Companies engaged in the extraction of subsoil resources are subject to a subsoil use tax, the rate of which as stipulated in the Tax Code depends on the mineral extracted. Additionally (or, in some cases, alternatively), subsoil users may be subject to various payments, the method of calculation and application of which are stipulated by a contract between the companies undertaking such activities and the relevant state agency.

Excise is imposed on a consumption basis and is applied upon the departure of excisable goods from the production site or from the importation of excisable goods. Excise rates vary according to the goods produced or imported and are subject to frequent changes. Excise paid for goods used for the production of other excisable goods can be offset against the excise charged for finished products. Alternatively, such excise can be reclaimed from the state budget. The export of excisable goods is subject to a rate of 0%.

Highway tax is imposed upon the entry of foreign-registered vehicles into the Republic of Azerbaijan, as well as on persons who own or use any type of vehicle, in an amount dependent on the type and weight of the vehicle, the distance to be travelled in Azerbaijan, and the number of seats, engine capacity, axle load and nature of imported products. The highway tax is also indirectly applicable to vehicles used locally through taxation of automobile petrol, diesel and liquid gas, and is payable by producers and importers of such petroleum products.

The 2016 amendments to the Tax Code exempt foreign countries' trucks, motor vehicles, trailers and semi-trailers from highway taxes

for three years starting from 1 June 2016 under certain circumstances determined by the legislation.

Land tax is imposed on the owners and users of land (defined under the Tax Code). The Cabinet of Ministers determines standard rates for agricultural land depending on the location, quality and purpose of the land plot. The tax is payable by both resident and non-resident individuals, and resident and non-resident enterprises.

- What are the main specifics of the special tax regime used in special economic zones, as well as industrial and technology parks?

In 2008, the Tax Code recognized tax regimes that may exist in special economic zones. The Law on Special Economic Zones, which became effective in April 2009, sets a preferential tax regime applicable to residents of special economic zones. Pursuant to the law, residents are subject to 0.5% simplified tax on their profits. Furthermore, no other taxes (excluding income taxes of employees) are applicable for such residents. Notwithstanding the establishment of the tax regime for special economic zones, no such zones were established until 17 March 2016.

The president of the Republic of Azerbaijan signed Order No. 1912 on measures regarding the creation of a free trade zone-type special economic zone in the Alat settlement of the Garadagh region of Baku (including the territory of the new Baku International Sea Trade Port) on 17 March 2016.

Starting from 2013, the Tax Code introduced significant tax privileges for residents of industrial and technology parks. Such privileges include exemption from profit tax and property tax for seven years for legal entities and individual entrepreneurs that are residents of such industrial and technology parks. All types of goods imported from residents of industrial parks for the purposes of their activities are exempt from import VAT for five years starting from 1 May 2016 on the basis of a document issued by the relevant executive authority.

Moreover, zero-rated VAT is applied to the provision of goods, performance of works and services for the purposes of the same activities by contractors to the residents of these industrial parks, or by subcontractors to the contractors of such residents for a period of five years starting from 1 May 2016.

9. Currency Regulation

- Which currency can be used for settlement in Azerbaijan?

The Azerbaijani manat (AZN) was introduced in 1992. Currency in Azerbaijan is regulated by the Central Bank of the Republic of Azerbaijan (the "CBA"). One manat is currently equal to approximately USD 0.58.

- How are foreign exchange transactions regulated?

Foreign exchange transactions are governed by the Law on Currency Regulation.[7] FIMSA and the CBA administer the overall enforcement of currency regulation. Various aspects of foreign currency regulation also cover precious metals, foreign securities and other matters.

- Who are considered to be residents and non-residents under Azerbaijani currency control regulation?

Azerbaijan's currency control legislation distinguishes between "residents" and "non-residents," with residents being subject to Azerbaijani currency regulation prior to being subject to regulation under the laws of other jurisdictions. The definition of "resident" includes private individuals having a permanent place of residence in Azerbaijan and legal entities established in accordance with Azerbaijani legislation. Branches and representative offices of foreign entities established in Azerbaijan do not fall within the definition of resident.

Subject to compliance with certain procedures, resident entities may freely open accounts in and outside Azerbaijan. Non-residents may freely open and operate foreign currency accounts at Azerbaijani banks.

[7] Law No. 910 of the Republic of Azerbaijan, On Currency Regulation, dated 21 October 1994.

- What are the applicable rules for bank transfers?

Azerbaijani currency operations rules only allow the following bank transfers: (1) payments (including advance payments) for imported goods or services by residents and non-residents (in the case of advance payments, documents confirming import of goods or services must be provided to the bank within 180 days); (2) payments by residents and non-residents under re-export contracts; (3) refunds of advance payments received by residents and non-residents under export contracts that have been terminated; (4) payments by resident entities to their foreign representative offices, branches and affiliates for a specified and declared purpose; (5) repayments by residents and non-residents of principal, interest, fees, and penalties on foreign loans and other debt obligations; (6) payments of dividends by residents to non-residents; (7) repatriation of foreign investments, including transfers of revenues and other amounts by non-residents; (8) payments under labor agreements by residents and non-residents to non-resident employees; (9) payments by residents and non-residents for litigation, arbitration, notary and other mandatory fees, scholarships, pensions, alimony and related costs, as well as inheritance payments by non-residents; (10) payments by residents and non-residents for participation in international organizations, conferences and other events; education and medical treatment; copyright, patents and franchising; and fees to foreign publishers, libraries and databases; (11) payments for personal purposes, such as transfers by resident individuals of up to USD 10,000 per month to close relatives; transfers by resident and non-resident individuals of any amounts earlier transferred to Azerbaijan or brought-in cash and declared to customs authorities; and transfers for other purposes by resident and non-resident individuals of up to USD 1,000 per day, but no more than USD 10,000 per month; and (12) transfers by residents and non-residents for exporting capital, provided that such transfers are made for equity investments, acquisition of securities and acquisition of ownership rights on land, subsoil, buildings, as well as other rights to immovable property.

- Are there any special currency control rules in Azerbaijan?

Currency operations without opening a bank account are subject to the following legal regime:

1. they can only be carried out by resident and non-resident individuals;

2. outbound money transfers by resident and non-resident individuals are limited to the equivalent of USD 1,000 per day, but no more than USD 10,000 per month; and

3. inbound money transfers are accepted without any limitation.

Both residents and non-residents must comply with the following requirements:

- the manat is the only currency for payment under a contract for the sale and purchase of goods and services in Azerbaijan;

- the purchase, sale and exchange of foreign currency in Azerbaijan must be carried out through authorized banks or authorized non-banking financial institutions. Transactions conducted outside these institutions are prohibited.

Currency operations are divided into routine currency operations and operations involving the movement of capital. Routine currency operations include:

- transfers for the payment of goods and services under import/export contracts with a term of payment not exceeding 180 days;

- transfers in connection with the financing of export/import transactions with a term not exceeding 180 days;
- transfers of dividends, interest and other income from deposits, investments, credits and other operations; and
- non-commercial transfers, such as transfers of inheritance, wages, pensions or alimony.

Operations involving the movement of capital include all other non-routine currency operations, for example:

- direct investment in entities for the purpose of deriving profit and obtaining control over the entity;
- purchase of securities;
- payments for ownership and other rights to immovable property;
- import/export transactions under credit terms of more than 180 days; and
- any other currency operation not deemed a routine currency operation.

Currency operations involving the movement of capital must be performed by resident entities in the manner approved by the CBA. The CBA, however, has not yet established any procedure. In effect, no licensing of currency operations involving the movement of capital is required at present.

Foreign exchange regulations are less restrictive for non-residents - largely due to the fact that non-residents' bank accounts outside Azerbaijan are not regulated by Azerbaijani currency control rules.

- What are the applicable rules for import and export of foreign currency in cash by individuals?

Resident and non-resident individuals are treated equally with regard to the import/export of foreign currency in cash. There are no limitations on the amount of foreign currency an individual may bring into Azerbaijan, provided that such amount is declared to the Azerbaijani customs authorities. Upon submission of supporting documents, individuals may freely remove foreign currency from Azerbaijan in an amount not exceeding the amount brought into the country and declared to the customs authorities (or otherwise legally imported).

- What are the repatriation requirements under Azerbaijani law?

Azerbaijani law allows repatriation of foreign investments, including transfers of revenues and other amounts by non-residents invested in the Azerbaijani economy. Such repatriation is possible upon submission of documents to the processing bank confirming foreign investments, such as a customs declaration if the money were brought in cash or a bank account extract if the money were transferred through the bank.

- What are the penalties for violation of Azerbaijani currency regulations?

Violation of Azerbaijani currency regulations leads to administrative liability. For instance, the purchase, sale or exchange of currency assets in a public place in violation of the legislation entails an administrative fine in the amount of 40-80% of the currency amount in question.

Likewise, acceptance of currency assets as a means of payment entails an administrative fine in the amount of 40-80% of the currency amount in question.

Banks conducting foreign currency operations in violation of the currency regulations may face an administrative fine in the amount of 10-20% of the currency amount for responsible officers and 20-30% of the currency amount for a legal entity.

10. Employment

- What are sources and general characteristics of Azerbaijani employment law?

Employment matters in the Republic of Azerbaijan are regulated by the Labor Code, effective as of 1 July 1999, together with other laws and regulations issued pursuant to the Labor Code.

The main characteristic of the employment law is the fact that the government pursues pro-employee policies across the field. In particular, the courts are very strict when reviewing employers' decisions in any manner adversely affecting employees' rights. Therefore, employers should exercise due care when deciding on termination, as well as when making any other decisions negatively affecting their employees.

- What is the procedure for entering into an employment contract?

To engage individuals in the provision of any works (services), an employer must have valid employment contracts with them. Conclusion, amendment or termination of an employment contract becomes valid after its registration in the electronic database of the Ministry of Labor and Social Protection of the Population of the Republic of Azerbaijan and once electronic confirmation of registration is sent to the employer.

An employment contract must contain specific information set by the Labor Code.

Individuals are guaranteed freedom of choice in employment, according to their desires, abilities and training. It is possible for businesses operating in Azerbaijan to hire employees directly without having to go through intermediary agencies. Employment contracts may not stipulate less favourable working conditions than those provided for by statutory law.

- Are probationary periods available and how should they be used?

To be effective, a probationary period may be stated in an employment contract and may not exceed three months. The probationary period includes only the factual time when an employee was performing his job functions. For example, time when the employee was on a valid sick leave, is not counted. The probationary period is not applicable to specific categories of employees. Any party to an employment contract may terminate the contract at any time during the probationary period by giving the other party a three days advance written notice. Termination in such a case must be documented in a form of an internal order.

- What are the grounds for termination of employment contracts?

The Labor Code provides the following grounds for dismissal: liquidation of an entity, downsizing, employee's unsuitability for the position, employee's non-performance or gross violation of his or her job duties, employee's failure to prove him/herself during the probationary period and employee reaching a certain age limit (only applies for those financed from the state budget).

If an employer has a trade union and an employee is a member of that trade union, to dismiss the employee due to downsizing or the employee's non-performance or gross violation of his or her job duties, the employer must obtain consent from the trade union. There are also certain restrictions covering the dismissal of specific categories of employees. In some cases, an employer is required to report an employee's dismissal to the relevant state authorities.

- What measures shall employers take for unilateral termination of employment contracts?

Depending on the ground for unilateral termination of employment contracts, employers shall take certain measures to ensure that the termination is lawful and would be upheld in the case of any disputes.

Such measures include conducting an analysis for the necessity of downsizing, issuing proper notices, conducting an internal investigation to ensure the to-be-affected employee's rights to express her or his position, preparing documentation proving the facts relied upon by the employer for termination, paying severance amounts, among other things.

- What are the options and procedures for employing foreign nationals?

Foreign employees working in Azerbaijan are subject to Azerbaijani labor law, except for those who have entered into an employment contract with a legal entity of a foreign country in that country and fulfill their labor duties in an enterprise (branch, representative office) operating in Azerbaijan.

Generally, foreign nationals wishing to work in Azerbaijan are required to obtain a work permit. This requirement does not apply to certain foreign nationals (eg, heads and deputy heads of branches and representative offices of foreign legal entities, heads and deputy heads of an LLC with at least one foreign shareholder, people visiting Azerbaijan on business trip(s) for up to 90 cumulative days per rolling year with regard to certain sectors of the economy, etc.). Work permits are issued by the migration authorities. A work permit may be issued for up to one year and may be extended an unlimited number of times (each extension may be for up to one year). Concluding employment contracts with foreign nationals prior to obtaining work permits for them is prohibited.

Foreign nationals, except for those from specific countries, coming to Azerbaijan must have visas. Starting from July 2016, foreign nationals may obtain an electronic Azerbaijani tourist visa through an authorized Azerbaijani travel agency. This visa can be obtained by electronically submitting the relevant documents and does not require a personal visit to the respective consular office.

The migration authorities may require foreign nationals to apply for a temporary residence permit. A temporary residence permit is issued for the period corresponding to the validity of the relevant work permit and may be extended an unlimited number of times. Unless a foreign national has obtained a temporary residence permit, on each visit lasting for more than 10 days he or she must register at his or her place of residence in Azerbaijan within 10 days from arrival.

11. Property Rights

- What are sources of Azerbaijani property law?

Legislation regulating land rights in Azerbaijan primarily consists of the Land Code of the Republic of Azerbaijan dated 2 June 1999 (the Land Code); the law On Land Reform dated 16 July 1996 (the Land Reform Law); the law On Land Lease dated 17 March 1999 (the Land Lease Law); the law On the Land Market dated 7 May 1999 (the Land Market Law); the law On Withdrawal of Land for Governmental Needs dated 20 April 2010; and other legislative acts. Land rights are also regulated by the relevant provisions of the Civil Code.

- Are there any limitations on ownership rights?

The Land Code recognizes state, municipal and private ownership of land in Azerbaijan. All types of ownership rights are equal. Only Azerbaijani citizens and Azerbaijani legal entities (including enterprises with foreign investment) may legally own land in Azerbaijan. International organizations, foreign legal entities, stateless persons, foreign citizens and states may lease land in Azerbaijan, although they may not own land and may not be granted a purchase option on a lease.

Certain categories of land are the exclusive property of the state or municipalities and may only be leased by or granted for the use of private persons. Individuals may own land within the limits established by law.

- What are the peculiarities of land use?

In addition to ownership, the Land Code recognizes perpetual and temporary land use rights, lease rights and easements.

Perpetual or temporary land use rights are granted free of charge. Temporary land use rights are divided into two categories: (i) short term (up to 15 years) and (ii) long term (up to 99 years for land under private ownership and up to 45 years for land under state or

municipality ownership). The terms of a temporary land use right may be extended appropriately either by the authorities that granted the right (if the land is under state or municipal ownership) or by a new agreement between the parties (if the land is under private ownership). Perpetual land use rights are granted for an indefinite period. The holder of such rights is liable only to land tax for the land use. Perpetual land use rights are granted to a limited number of persons listed in the Land Code for certain purposes, such as ensuring the rights of the population needed for their apartments to be viable. These persons may be entitled to a temporary land use right, which is only granted by the state and municipalities in exceptional circumstances where the period of operation is known in advance. This rule does not apply to the construction of apartments.

Landowners may grant perpetual or temporary land use rights under an agreement with the land user. In this case, land use terms are defined by the agreement between the landowner and the land user.

Land lease is the use of land for a definite period and for a fee. Leases are concluded for a period agreed upon by the parties. Rental payments for the lease of privately held land plots are freely negotiable. Rental payments for state or municipally owned land plots are determined according to market conditions, but may not be less than specified statutory rents. With regard to agricultural land, discounts on statutory rents are available, depending on market conditions in the agricultural sector.

Landowners and holders of perpetual or temporary land use rights may, if the conditions of the land use so provide, lease land as lessors. Under the Land Lease Law, foreign individuals and legal entities may only be lessees or sub-lessees of land plots. Purchase option provisions in land lease agreements concluded with foreign individuals and legal entities are prohibited.

Lessees may sublease leased land parcels with the consent of the landowner lessors.

An easement is a right to the restricted use of a third party's land, such as an access road, etc. It may be established by an agreement between interested parties or by a court. Generally, the easement holder must pay for the easement right, unless otherwise provided for by law. Easements established on agricultural land for enterprises or individuals engaged in agriculture are free. Easement rights remain in place upon the transfer of land and land use rights.

- How can land plots be transferred?

Landowners have the right to transfer their land by sale, contribution to charter capital, mortgage, exchange, grant or by other means, subject to certain restrictions established by law. A foreign owner must sell a land parcel within one year if such land parcel was transferred to the foreign national as an inheritance or gift or as result of foreclosure. State or municipal authorities, as the case may be, have the right to enforce a mandatory sale if a foreign national fails to comply with this requirement.

The state or municipality (depending on the status of the land) may transfer land parcels from the state or municipal fund, respectively, into the ownership or use of citizens and legal entities of Azerbaijan, with or without payment. For certain land plots of state or municipal funds, transfer into private ownership is prohibited or, if it is allowed, requires that such transfer be made on a tender basis. Land users and lessees have the right to transfer their land use rights, subject to restrictions that may be imposed by the landowner.

The value of land set forth in land transactions must correspond to market value and, in any case, may not be less than the minimum statutory value fixed by law. All land use rights, including easements, servitudes and transactions therewith, are subject to state registration. Land transactions are subject to notarization.

- What is the procedure for registering immovable property?

All ownership rights to immovable property, including land rights, must be registered with the State Register of Immovable Property of the State Committee for Property Issues. Under the law On State Registration of Immovable Property[8] (the Immovable Property Law), ownership rights to land, subsoil plots, isolated bodies of water and any other thing securely attached to a land plot, eg, objects that may not be moved without causing disproportionate damage to their function, including forests, longstanding plantations, buildings and structures, as well as ownership rights to premises under construction and lease and use rights, are also subject to state registration.

Under the Immovable Property Law, the mortgage of immovable property as well as of premises under construction must be registered. The right to lease or to use immovable property needs to be registered if such right is going to last more than 11 months. Under Azerbaijani law, information contained in the Register of Immovable Property is not open to the public and is only available to the property owners.

On 5 September 2012, the president of the Republic of Azerbaijan adopted a decree on the activity of the State Agency for Public Services and Social Innovations. The main objectives of the agency are to improve the services provided to citizens by state authorities, undertake integration of information databases of state authorities and further the establishment of electronic public services in Azerbaijan.

ASAN Service centers were established as main structural divisions of the agency. The agency primarily operates through such centers. The agency has a range of responsibilities related to property registration issues, such as:

- notarial services;

[8] Law No. 713-IIQ of the Republic of Azerbaijan, On State Registration of Immovable Property, dated 29 June 2004.

- registration of real estate transactions (issuance of extracts on real estate rights, as well as certificates on encumbrance of real estate issued from the state register); and
- issuance of cadastral certificates.

- What is a mortgage and how is it regulated?

Mortgages are regulated by the Civil Code, the law On Mortgage[9] (the Mortgage Law) and the new supplementary regulations, which have broadened the mortgage market. Immovable property, including immovable property under construction, and movable property with registered proprietary rights, may be mortgaged and re-mortgaged.

The Mortgage Law introduces mortgage certificates as a type of security registered with the state registry. A mortgage certificate is issued by a mortgagee and certifies the holder's: (i) mortgage; (ii) priority right to claim satisfaction without the need to produce additional evidence of the mortgagor's underlying obligation; and (iii) right to claim seizure in the circumstances specified by the law.

[9] Law No. 883-IIQ of the Republic of Azerbaijan, On Mortgage, dated 15 April 2005.

12. Privatization Programs

- How is privatization regulated?

The principal acts regulating privatization in Azerbaijan are the Law On Privatization of State Property dated 16 May 2000 (the "Privatization Law"), and The State Program No. II on Privatization of State Property in the Republic of Azerbaijan adopted by the president of the Republic of Azerbaijan on 10 August 2000.

- What is privatization?

Privatization of state property is the transfer of ownership rights over state property to buyers in accordance with the rules and procedures established by Azerbaijani law.

Citizens of the Republic of Azerbaijan, foreign nationals and stateless persons, and local and foreign legal entities may act as buyers of state property. Legal entities with at least 20% state ownership, executive state bodies and municipalities may not act as buyers.

- What property is subject to privatization?

Under the Privatization Law, property located in the Republic of Azerbaijan and abroad and owned by the Republic of Azerbaijan, participatory interest and shares in the charter capital of joint ventures, land plots under privatized enterprises can be privatized.

The Privatization Law lists certain types of property, privatization of which is prohibited. This includes subsoil, forest funds, water resources, airspace, waters of the Caspian Sea belonging to the Republic of Azerbaijan, satellite communication facilities, land plots used for public roads of national and local importance, urban highways, railways, bridges, objects of civil defense, state institutions on social protection, etc.

Privatization of state property is carried out in the following ways:

1. preferential sale of property of privatized state enterprises to members of labor collective;
2. privatization of state enterprises based on individual projects;
3. sale of state property on specialized check and money auctions;
4. sale of state property on open auctions;
5. sale of state property through the investment tender;
6. sale of state property, which is leased to other persons;
7. sale of state-owned enterprises by declaring them bankrupt.

- Who acts as the seller of property subject to privatization?

The State Committee On Property Issues of the Republic of Azerbaijan acts as a seller of state property in the process of privatization. The committee maintains the register of state property, creates a state privatization commission, manages state property until it is sold under privatization, prepares proposals on restructuring and rehabilitation of enterprises before their privatization, acts as a founder of joint stock companies established in the process of privatization, etc.

13. Language Policy

- Azerbaijani is the official state language. What does this mean?

Under the Constitution and the Law on the Official Language, which became effective on 4 January 2003 (the "Official Language Law"), the state language is Azerbaijani. The Azerbaijani alphabet is based on Latin script. Azerbaijani is the official language of administration, legislation, court proceedings and recordkeeping in all state agencies, state-owned enterprises, organizations, businesses and other entities in Azerbaijan.

- In what particular areas is the use of Azerbaijan mandatory?

All state bodies, local authorities, state agencies, political parties, non-governmental organizations (funds and public associations), trade unions and legal entities (including their representative or branch offices) are required to use Azerbaijani in their paperwork management.

- Can my company's name be in a foreign language?

Yes. However, the Azerbaijani spelling requirements must be met in the company's name. The rules of Azerbaijani spelling are set out in the Rules of Azerbaijani Orthography approved by Resolution No. 108 of the Azerbaijani Cabinet of Ministers on 5 August 2004, which, as a rule, require that words from other languages using the Latin script be spelt in Azerbaijani. The State Language Commission was formed in 2001 to address the official use of Azerbaijani.

- What language should I use while operating my company in Azerbaijan?

As a rule, and unless otherwise established by the relevant law (such as that governing notaries), any notarization, legalization, registration or other forms of formalization of a foreign-language document

requires translation into Azerbaijani with subsequent notarization of the translation.

Letterheads, signage and other items of official paperwork, announcements, advertisements, price tags, labels and certifications must be in Azerbaijani and, additionally, may be in other languages where necessary or desirable (such as in the case of goods exported from Azerbaijan, individual passports, etc.). For services rendered to foreign nationals, a foreign language may be used together with Azerbaijani.

14. Civil Legislation

- What are the main Azerbaijani legislative acts regulating the civil legislation?

The Civil Code, adopted on 28 December 1999, and effective from 1 September 2000, forms the basis of civil law in Azerbaijan. The Constitutional Law on Normative-Legal Acts[10] provides for the supremacy of the Civil Code over other laws and codes that govern civil law agreements, transactions and acts. Further, Article 2.6 of the Civil Code establishes the general supremacy of the Civil Code over other legal acts adopted in furtherance of laws regulating civil law relations. The Civil Code does not generally regulate proprietary relationships based on administrative or other forms of subordination, including tax, financial and administrative relationships.

The Civil Code consists of two parts: the General Part and the Special Part. The articles of the General Part include provisions applicable to persons (individuals and legal entities), property and property rights; rules governing the enforcement of obligations; and the conclusion, validity and termination of contracts.

Among the provisions applicable to legal entities are provisions regulating different types and organizational forms of legal entities, and the main principles of a legal entity's establishment, state registration, management, activity, liquidation and reorganization.

The Civil Code introduces detailed provisions on property rights as well as the distinctions between movable and immovable property. Immovable property transactions require both certification by a notary and registration in the state immovable property register. Similar requirements might apply to movable assets as prescribed by other acts.

[10] Dated 21 December 2010; came into force on 21 February 2011.

- Are there any mandatory contractual terms under Azerbaijani law?

By default, the subject matter is considered as a mandatory term of any contract, while other mandatory terms may be provided by law or be declared by either party as essential for the agreement to be executed. Parties are free to agree on the terms of a contract they enter into at their own discretion, unless such contractual terms are considered mandatory for the respective contract type.

- What types of contracts are recognized under Azerbaijani law?

The Civil Code specifically incorporates the principle of freedom of contract, pursuant to which parties are free to enter into and agree the terms of contracts, including those not governed in the Special Part of the Civil Code. Under the Civil Code, parties must nevertheless comply with the mandatory provisions of the Civil Code and other laws. The Special Part of the Civil Code contains rules governing particular types of contracts. Apart from types of contracts regulated under the previous Civil Code (sale and purchase, lease, loan, commission, transportation, storage and supply), the current Civil Code regulates certain "new" types of contracts, such as franchises and concessions. It also regulates inheritance and reimbursement for damage caused through non-contractual relationships, as well as general aspects of various forms of securities transactions.

- Are there any rules for entering into a contract?

The Civil Code specifies various rules for entering into a contract. As a rule, a contract can be concluded in any form, unless the law requires a specific type of contract execution.

When negotiating and entering into a contract, the parties must act in good faith, which includes an obligation to provide accurate and complete information as required by law or regarding the substance of the negotiated transaction. If a party suffers due to the other party

acting in bad faith, it may claim for compensation of damages from the offending party.

- How is proper performance of a contract secured under Azerbaijani law?

Azerbaijani law provides various instruments to secure the proper performance of a contract, including penalty, guaranty, surety, withholding of property, deposit, etc. The parties can agree on any other security mechanism, even if it is not specifically listed in the law.

- What are the rules relating to alteration or termination of contracts?

Unless otherwise provided by law, a party may also unilaterally alter or terminate the agreement if such a right is established by law or the agreement.

A contract can be altered or terminated in cases of material breach of the other party. A court may also terminate a contract upon a material breach by one party or in other cases stipulated by the Civil Code or other legal acts. A material breach of an agreement by one party is deemed to occur when the other party, as a result of the damage caused by the breach, is significantly deprived of what it was entitled to upon conclusion of the agreement.

Unless otherwise specified by the Civil Code or the agreement, alteration or termination must be effectuated in the same way as the underlying agreement. In addition, a party willing to terminate or alter the agreement can only apply to a court when the other party refuses to terminate or alter the agreement.

- Choice of foreign law

Pursuant to the Civil Code, Azerbaijani civil legislation is applicable to all individuals and legal entities "engaged in activity" in Azerbaijan, and the rules established by civil law are applicable to

relationships with foreign nationals, stateless persons and foreign legal entities, unless the law provides otherwise. If, however, a transaction has a "foreign element," pursuant to the Law of the Republic of Azerbaijan On International Private Law,[11] the parties can choose foreign law to govern their contract.

A "foreign element" is generally understood to exist where:

- a party to the contract is organized or resides in a foreign jurisdiction;
- the place of performance under the contract is outside Azerbaijan; or
- the location of the contract's subject matter is located outside Azerbaijan.

Foreign law will not apply if it contradicts the Azerbaijani Constitution and any Azerbaijani law adopted by referendum. Furthermore, Azerbaijani "imperative" rules, eg, mandatory rules, such as Azerbaijani currency control laws and tax laws, are applicable irrespective of a contract's choice-of-law provision.

The International Private Law provides that, absent an agreement between the parties on the choice of governing law, agreements on joint activity and construction agreements are governed by the law of the country where the relevant activity takes place or the law of the country where the results of the contractor agreements will appear. Agreements made at auctions and exchanges are governed by the law of the country where the relevant activity takes place, and property rights over immovable and movable property are governed by the law of the jurisdiction where the property is located.

[11] Dated 6 June 2000.

In civil transactions with a foreign element (eg, where one of the parties is a foreign person), the parties to an agreement may choose a foreign law as the governing law. While there are certain exceptions typical for many jurisdictions, under Azerbaijan's conflict of laws rules,[12] courts in Azerbaijan must respect and uphold a choice of law.

[12] Primarily, Law No. 889-IQ, of the Republic of Azerbaijan, On Private International Law, dated 6 June 2000.

15. Banking

- What is the structure of the banking system in Azerbaijan?

Azerbaijan has a two-tiered banking system, with the CBA and FIMSA making up the first tier and the remaining banks making up the second.

Banks in Azerbaijan must be established by at least three individuals and/or legal entities in the form of an open joint stock company. Political parties, social unions, funds and other non-commercial organizations cannot be shareholders in banks.

- What financial authorities are established in Azerbaijan to oversee banking activities?

The CBA is a public legal entity that operates as the central banking authority and establishes and implements state monetary and currency policy. Maintaining the domestic and external stability of the manat is one of the most important elements of the current monetary policy.

The CBA reports to the president of Azerbaijan. Upon nomination by the president, the National Assembly appoints the seven-member board of the CBA. The president appoints the CBA chairperson from among the board members, approves annual reports, appoints auditors and has the right to demand any information related to the CBA's activity.

FIMSA is a public legal entity that regulates and supervises participants of the securities market, investment funds, insurance and credit organizations (banks, non-banking credit organizations and postal operators) and payment systems, and ensures transparency and flexibility in its supervision. FIMSA can adopt legal acts regulating the financial markets, issue and revoke the licenses of the participants of the financial markets, and carry out inspections of participants.

As one of the banking supervisory authorities, FIMSA establishes the minimum charter capital, net worth and other prudential requirements for them. It also issues regulations on professional qualifications for the senior management and accounting personnel of commercial banks, including branches of foreign banks.

- What are the primary sources of legislation covering banking in Azerbaijan?

Banking in Azerbaijan is regulated by the law On Banks,[13] the law On the Central Bank of the Republic of Azerbaijan,[14] the Charter of FIMSA[15] and normative acts of the Central Bank of the Republic of Azerbaijan ("CBA") and FIMSA. Both banks and non-bank credit organizations are classified as credit organizations. However, while banks are allowed to conduct all types of banking operations, under the law On Non-Bank Credit Organizations,[16] non-bank credit organizations may only conduct certain types of banking operations, such as extending loans, selling and purchasing debt obligations (factoring, forfeiting), financial leasing, issuing guarantees, etc., and are expressly prohibited from accepting deposits.

- What activities do Azerbaijani banks generally engage in?

All banking activities, including the acceptance of deposits, maintenance of correspondent accounts, cash operations, money transfers and lending are subject to licensing. Only FIMSA has the right to grant and revoke licenses for banking activity, and also has the right to permit the establishment of a bank's subsidiaries, branches and representative offices. Bank licenses are issued for an indefinite

[13] Law No. 590-IIQ of the Republic of Azerbaijan, On Banks, dated 16 January 2004, as amended.
[14] Law No. 802-IIQ of the Republic of Azerbaijan, On the Central Bank of the Republic of Azerbaijan, dated 10 December 2004.
[15] Decree of the President of the Republic of Azerbaijan on the Charter of FIMSA, dated 10 March 2016.
[16] Law No. 933-IIIQ of the Republic of Azerbaijan, On Non-Bank Credit Organizations, dated 25 December 2009.

term and are effective as of the date they are issued by FIMSA. Bank licenses cannot be transferred to third parties.

In addition to core banking operations, a bank may engage in other operations (such as factoring, clearing, professional activity on the securities market and other activities) if its license allows.

- What activities are Azerbaijani banks prohibited from engaging in?

Banks are prohibited from conducting the following activities:

  - wholesale and retail trade;
  - production;
  - transportation;
  - agriculture;
  - mining;
  - construction; and
  - insurance.

With the exception of insurance, banks cannot engage in these activities either as an affiliate, shareholder or partner.

- What are the standards for banks in Azerbaijan?

FIMSA establishes prudential regulations for banks (including requirements for minimum capital as well as the monetary and non-monetary proportions of a bank's capital) and reserve fund requirements.

In 2012, the aggregate capital requirement for banks was increased under the Rules on the Calculation of Bank Capital and Its Adequacy. Pursuant to these rules, from 1 January 2015 the minimum aggregate capital requirement for banks is AZN 50 million.

The senior management of all banks (board members, chief accountant and his or her deputies, internal audit director, and head and chief accountant of each branch) is subject to certain compulsory standards and is certified by FIMSA, which also certifies all persons authorized to sign documents in the name of a bank and its branches.

- Can a foreign bank operate in Azerbaijan?

Foreign banks may operate representative offices, branches, joint ventures and wholly owned subsidiaries in Azerbaijan.

Foreign individuals and foreign entities registered in offshore areas specified by FIMSA, as well as foreign banks and foreign bank holding companies, may not be founders or shareholders of local banks or founders of local subsidiary banks, branches or representative offices.

Foreign individuals and foreign entities that are not banks may set up, operate and acquire shares in banks in Azerbaijan. Azerbaijani law does not define the term "bank with foreign participation," so this term may be broadly construed to embrace virtually all banks with foreign capital, regardless of the extent of foreign ownership.

Banks with foreign participation are subject to the same restrictions as domestic banks, as well as certain additional restrictions. For example, at least one of the members of the board of a subsidiary of a foreign bank or foreign bank holding company operating in Azerbaijan and at least one of the managers of a branch of a foreign bank must be a citizen of the Republic of Azerbaijan.

- What approvals are required to purchase shares in Azerbaijan banks?

For the acquisition of shares in an Azerbaijani bank, the governmental authorizations described below must be obtained.

FIMSA Permit

Under the Banking Law, an Azerbaijani bank must obtain a permit from FIMSA prior to the acquisition of shares in a bank if the acquisition would result in the acquirer's shareholding reaching 10, 20, 33 or 50% of the bank's charter capital.

If the acquirer is a foreign bank, the target bank must provide the following documents to FIMSA, among other information/documents, in order to obtain the permit:

1. a statement from the foreign bank's home banking regulatory authority detailing that the foreign bank has permission to accept deposits and other repayable funds from individuals; and

2. a letter from the home banking regulatory authority confirming that it does not object to the acquirer's acquisition of shares in the bank.

FIMSA must consider the application within 90 calendar days.

Antimonopoly Approval

Under the Law of the Republic of Azerbaijan On Antimonopoly Activity, dated 4 March 1993, an acquisition of more than 20% of the voting shares in an Azerbaijani company requires antimonopoly approval if: (i) the combined book value of the assets of both the acquirer and target is more than 75,000 times the minimum monthly wage; (ii) either the acquirer's and/or the target's share of the relevant market exceeds 35%; or (iii) the acquirer controls the seller of the target's shares.

To obtain antimonopoly approval, either the acquirer or target must file an application with the antimonopoly authority, the State Antimonopoly Service under the Ministry of Economy, which must respond to the application within 15 days.

- What are the requirements for establishing a local subsidiary of a foreign bank in Azerbaijan?

Banks in Azerbaijan must be established by at least three individuals and/or legal entities in the form of an open joint stock company.

Establishing a bank in Azerbaijan involves the following key stages:

1. preliminary application to FIMSA for a license;
2. corporate registration of the bank with the Ministry of Taxes;
3. registration of the bank's shares with FIMSA; and
4. final application to FIMSA for a license.

The preliminary application to FIMSA is the most time-consuming step as, under the Banking Law, FIMSA may consider the initial application for up to 180 days. Among other documents, the preliminary application must include the charter of the yet-to-be-established bank approved by its founders, a business plan, a list of proposed managers and information from relevant public authorities of their countries of residence regarding their criminal history, a statement from the foreign bank's regulatory authority on the foreign bank's permission to accept deposits and other repayable funds from individuals or legal entities, etc. Upon FIMSA's favorable response to the initial application, registrations with the Ministry of Taxes and FIMSA must take place. The bank's charter capital must be paid in full prior to registration with the Ministry of Taxes. Once these steps are completed, the final application is made to FIMSA, which will then have up to 45 days to issue a license.

- What are the requirements for establishing a representative office of a foreign bank in Azerbaijan?

A bank's representative office is not a legal entity, but a separate division of the bank, which represents and protects its interests and does not have the right to engage in banking activities.

The establishment of a representative office involves the following key stages:

1. preliminary application to FIMSA for a license;
2. corporate registration of the representative office with the Ministry of Taxes;
3. final application to FIMSA for a license.

The preliminary application is considered by FIMSA within 70 days. Upon FIMSA's favorable response to the initial application, corporate registration of the representative office with the Ministry of Taxes must take place. Thereafter, the representative office must apply to FIMSA and provide corporate registration documents and a written declaration that no changes to the preliminary application documents have been made, and FIMSA in turn must issue a license.

- How are bank deposits protected in Azerbaijan?

Bank deposits are protected under the Law of the Republic of Azerbaijan On Deposit Insurance dated 29 December 2006 (the "Bank Deposit Law") and the Law On Full Deposit Insurance dated 19 January 2016. The goal of establishing the deposit insurance system is to prevent the risk of losing money deposited by individuals if the banks or local branches of foreign banks become insolvent.

Under the Bank Deposit Law, an insured deposit is a part of the deposit that will be compensated by the Azerbaijan Deposit Insurance Fund in the amount defined by law in the case of an insurance incident in the bank.

Starting from 2016, bank deposits accepted by the Azerbaijan Deposit Insurance Fund's member banks with an annual interest rate of 3% in foreign currency and 15% in national currency must be fully insured for three years, irrespective of the deposit amount.

In the case of an insured event, the deposits in national currency must be compensated in Azerbaijani manats, deposits in US dollars and euros must be compensated in US dollars and euros accordingly, and deposits denominated in other foreign currencies must be compensated in US dollars or euros based on the official exchange rates defined by the CBA.

- What are the anti-money laundering requirements in Azerbaijan?

The principal anti-money laundering requirements are established under the Law on the Fight Against the Legalisation of Illegally Obtained Funds and Other Property of 10 February 2009 (the "Anti-money Laundering Law").

Criminally obtained funds are the funds of every kind: property, whether movable or immovable, corporeal or incorporeal, tangible or intangible, and legal documents evidencing the title to such property, obtained directly or indirectly through the commission of an offense defined by the Criminal Code of the Republic of Azerbaijan.

Measures to prevent the legalization of criminally obtained funds or other property and the financing of terrorism include monitoring activities, preparation and application of the internal control system by monitoring entities and other persons involved in monitoring which are legal persons, and prohibition against informing the customer or any other person on the measures against the legalization of criminally obtained funds or other property and the financing of terrorism.

The following persons must participate in the monitoring measures:

- credit institutions;

- insurers, reinsurers and insurance intermediaries;
- investment companies;
- legal persons providing leasing services;
- institutions and other organizations providing post services that are engaged in transfers of the funds;
- pawnshops;
- investment funds and their managers;
- non-governmental organizations, branches or representative offices of foreign non-governmental organizations in the Republic of Azerbaijan or religious organizations parts of the activities of which consist of receiving, collecting, delivering or transferring funds.

16. Insolvency

Overview

Azerbaijan has two separate insolvency regimes: one for commercial and non-commercial companies; and another for banks.

- What law applies?

The insolvency of commercial and non-commercial legal entities is regulated by the Law On Insolvency and Bankruptcy of the Republic of Azerbaijan dated 13 June 1997 (the "Insolvency Law"). The insolvency of banks is regulated by the law of Azerbaijan On Banks dated 16 January 2004 (the "Banking Law"). Insolvency and bankruptcy of investment funds and insurance companies are governed by the Law of the Republic of Azerbaijan On Investment Funds and the Law of the Republic of Azerbaijan On Insurance Activity, along with the Insolvency Law.

The Insolvency Law uses the words "insolvency" and "insolvent" with respect to a debtor and its status (eg, insolvent debtor, debtor's insolvency), and "bankruptcy" with respect to procedural issues (eg, bankruptcy proceedings, bankruptcy application).

In this chapter, we discuss the general bankruptcy and insolvency rules applicable to commercial and non-commercial companies.

- What are the requirements for initiating insolvency?

Under the Insolvency Law, an insolvent entity (debtor) itself or its creditors may commence bankruptcy proceedings by filing an insolvency application with a court. In "exceptional" cases, the debtor may commence non-judicial bankruptcy proceedings. The Insolvency Law, however, does not indicate what constitutes an "exceptional" case and, in practice, it appears that this provision is rarely, if ever, used.

- What are the stages of insolvency?

In the event of the commencement of non-judicial bankruptcy proceedings, the debtor must give notice to all creditors of the first meeting of creditors. The creditors' meeting must be held within three weeks of the debtor's resolution to commence bankruptcy proceedings. Notice of the meeting must be sent to all known creditors by registered mail no later than two weeks before the meeting and published twice in an official periodic publication, with the second notice published no later than one week before the meeting.

In the event bankruptcy proceedings are commenced in court, after the court schedules the first hearing, the applicant must publish two notices of the hearing at least seven days before the scheduled hearing date. The court may also require notice to be given to creditors by other means.

After considering the case, the court may issue a resolution:

a. declaring the debtor insolvent and appointing a bankruptcy manager;

b. appointing a temporary bankruptcy manager or prolonging such appointment; or

c. refusing to declare the debtor insolvent.

After a debtor has been declared insolvent, the bankruptcy manager convenes the initial meeting of creditors by giving notice to all known creditors of the debtor. The meeting must be held within 15 days of the court's insolvency resolution.

Upon commencement of bankruptcy proceedings, ie, the filing of a bankruptcy application with a court or adoption by the debtor of a resolution on commencement of non-judicial bankruptcy proceedings, the debtor may not dispose of any assets for its commercial activity, to fulfil its obligations, or for any other reason without the prior

authorization of the court, bankruptcy trustee or temporary bankruptcy trustee.

Upon the court's insolvency declaration, claims against the debtor may be asserted only within the framework of bankruptcy proceedings. At any time during the bankruptcy proceedings, the debtor may request that the court suspend the proceedings and consider a rehabilitation plan. A court-approved rehabilitation plan may not exceed two years.

- What is the role of the bankruptcy manager?

A bankruptcy manager is authorized to represent the debtor and manage its estate. They are given discretion to endorse the debtor's profitable contracts (making them effective) and to terminate the debtor's unprofitable contracts. Although a bankruptcy manager is vested with this "cherry-picking" power, any termination of the debtor's unprofitable contracts must be made in compliance with the requirements of Azerbaijani law. Specifically, the Insolvency Law allows a creditor whose contracts with the debtor have been terminated by the bankruptcy manager to assert a claim for the damages caused by termination. Such creditor, however, is treated as an unsecured creditor.

A temporary bankruptcy manager may be appointed by the court prior to declaration of the debtor's insolvency as an interim measure, to ensure that the debtor does not illegally dispose of assets prior to a declaration of insolvency, and conduct an initial financial analysis of the debtor's financial situation.

- When can transactions be challenged?

A bankruptcy manager can apply to a court to invalidate the debtor's transfer of property, including money and securities, if:

  - the transfer or pledge of property occurred while the debtor was insolvent;

- the transfer or pledge of property occurred within 90 days prior to the commencement of the bankruptcy proceedings; or
- the creditor is a related party and the transfer or pledge of property occurred within one year prior to the commencement of the bankruptcy proceedings. Related parties of the borrower are: heads and members of the board of directors (supervisory board) and executive body of the legal entity; heads of structural units (eg, branch, representative office, department, etc.) of a legal entity; any person directly or indirectly holding at least 10% of the shares or a 10% participatory interest in the charter capital of the legal entity; and other persons listed in Article 49-1.1 of the Civil Code of the Republic of Azerbaijan.

- How are creditors paid in insolvency?

Creditors are paid in accordance with the priority established under the Insolvency Law, except for secured creditors who can exercise their security rights regardless of whether the bankruptcy process has begun.

- How are secured debts handled?

The bankruptcy manager sends a notice to a secured creditor within three days from the date of his/her appointment. A secured creditor may satisfy its claims outside bankruptcy proceedings by reclaiming the property subject to its security interest within 14 days of actual notice of such proceedings. If it fails to do so, the bankruptcy manager will have the right to sell the security in accordance with the applicable law and to report to the secured creditor on the sales revenue (deducting the costs incurred for the sale) within the agreed total value of its claim.

A claim to recover secured property must be submitted to the bankruptcy manager. At the secured creditor's option, the bankruptcy manager must satisfy the secured claim by:

- selling the collateral at auction or by other means, and paying the secured claim from the proceeds;
- transferring ownership of the collateral to the secured creditor; or
- selling the collateral to a third party as directed by the secured creditor.

- What is the priority when paying creditors' claims?

In the event of liquidation in bankruptcy, the debtor's assets are distributed in the following order of priority:

a. costs associated with conducting the bankruptcy proceedings (including notice publication, court and bankruptcy manager expenses);

b. claims for compensation of harm to health and alimonies;

c. claims of the debtor's workers for employment termination allowances and wages, and claims under copyright royalties for the six-month period prior to the insolvency declaration;

d. claims for state taxes, payments to a mandatory state insurance non-budgetary fund and municipality budgets for one year prior to the announcement of insolvency; and claims of credit institutions and non-residents related to unsecured loans and interest thereon;

e. claims of other unsecured creditors;

f. claims of the debtor's owners.

17. Intellectual Property

- What is the regulatory environment of IP rights protection in Azerbaijan?

Since 1996, the Republic of Azerbaijan has implemented a national system for the registration and protection of intellectual property rights. Intellectual property rights in Azerbaijan include all rights to industrial property (including inventions, industrial designs, utility models, trademarks, geographic names and domain names) and copyright and related rights. Current legislation pertaining to intellectual property includes the Law on Copyrights and Related Rights[17] (the "Copyright Law"), the Law on Trademarks and Geographic Designations[18] (the "Trademark Law"); the Law on Patents[19] (the "Patent Law"), the Law on the Topology of Integrated Microcircuits,[20] the Law on Unfair Competition[21] (the "Unfair Competition Law") and the Law on Securing Intellectual Property Rights and Combating Piracy (the "Anti-Piracy Law").[22]

Azerbaijan is party to several international agreements concerning the protection of intellectual property, including the Berne Convention for the Protection of Literary and Artistic Works, the Convention Establishing the World Intellectual Property Organization, the Performances and Phonograms Treaty of the World Intellectual Property Organization, the Copyright Treaty of the World Intellectual

[17] Law No. 438-IQ of the Republic of Azerbaijan, On Copyrights and Related Rights, dated 8 October 1996.
[18] Law No. 504-IQ of the Republic of Azerbaijan, On Trademarks and Geographic Names, dated 12 June 1998.
[19] Law No. 312-IQ of the Republic of Azerbaijan, On Patents, dated 10 June 1997.
[20] Law No. 337-IIQ of the Republic of Azerbaijan, On the Topology of Integrated Microcircuits, dated 31 May 2002.
[21] Law No. 1049 of the Republic of Azerbaijan, On Unfair Competition, dated 2 June 1995.
[22] Law of the Republic of Azerbaijan, On Security of Intellectual Property Rights and Combating Piracy, dated 22 May 2012.

Property Organization, the Paris Convention for the Protection of Industrial Property, the Madrid Agreement Concerning the International Registration of Marks, the Protocol regarding the Madrid Agreement Concerning the International Registration of Marks, the Patent Cooperation Treaty and the Eurasian Patent Convention.

- What IP rights can be protected in Azerbaijan?

Azerbaijan is a "first to file" and not a "first to use" jurisdiction, meaning early filing and registration of intellectual property rights is essential to ensuring protection.

Patent Protection, Utility Models and Industrial Design

Patent protection is granted to an invention if it is novel, inventive and useful. The maximum duration of protection for an invention patent is 20 years. If the subject matter of an invention patent is a product or process subject to administrative procedures, the validity term may be extended for five years.

Utility models are inventions which are granted patent protection if they are new and "industrially applicable." The term of utility patents is 10 years.

An industrial design right is characterized by an artistic and structural form which determines its external appearance. Patent protection is granted if an industrial design is novel or original. The validity term is 10 years, which may be extended for another five years at the application of the patent owner.

Trademarks and Geographic Designations

The right to a trademark is based on registration with the Patent Committee. Trademark registration is granted for a term of 10 years, renewable repeatedly.

Legal protection is given to the appellation of the origin of goods based on registration with the relevant state agencies, and to

trademarks either existing under international agreements upon the registration thereof, or bearing the status of a well-known trademark.

Copyright

The Copyright Law regulates activities connected to the creation and use of works of science, literature and the arts (copyright), as well as stage productions, phonograms, programs broadcast by radio or cable, and computer programs and databases (related rights). Copyright protection is normally granted to the author without registration requirements. The right to use a copyrighted work may be assigned by the author. A copyright provides protection for the lifetime of the author and normally for a period of 70 years following his or her death.

Computer Programs and Databases

Rights to computer programs, databases and topologies of integrated microcircuits are protected under the Copyright Law and the Law on the Topology of Integrated Microcircuits. The unauthorized re-creation (copying) of computer programs, alteration of existing programs and unlawful access of legally protected computer information are criminal offenses.

- Are domain names protected and recognized as IP objects in Azerbaijan?

There is no separate law regulating domain names as such. However, under the amendments made to the Trademark Law dated 3 April 2009, several provisions regulating domain names came into force. Accordingly, under the Trademark Law, if domain names are identical to trade names and trademarks covering identical goods and services and used for commercial purposes, then they will be deemed to infringe the rights of the trademark owner.

- What are the legal requirements applicable to license and franchise agreements?

The Civil Code defines and governs franchising agreements. Franchising agreement is broadly defined as an agreement between independent entities on mutual assistance in the manufacture and sale of goods and the provision of services. Other provisions of the Civil Code clarify the structure of franchising: a franchisor grants a franchisee the right to use the franchisor's intangible rights, including intellectual property rights, knowhow and other valuable information for which the franchisee agrees to pay a franchise fee and follow the franchisor's instructions.

Patents and trademarks under franchising and any other commercial agreements may be assigned and/or licensed by their owners to individuals or legal entities. Such an assignment or license must be registered with the Committee on Standardization, Metrology and Patents of the Republic of Azerbaijan to ensure its validity and enforceability.

- How can infringed IP rights be enforced in Azerbaijan and what are the available remedies?

Violation of trademark rights carries civil, administrative and criminal liability. Pursuant to the Trademark Law, a trademark owner whose rights are abused is granted the right to demand a termination of illegal acts that violate the owner's rights and recovery of losses caused to the trademark owner in the amount of up to AZN 50,000.

The Law of the Republic of Azerbaijan On Unfair Competition imposes financial sanctions on a person who violated the rights of a trademark owner equal to the amount of the illegally obtained benefit.

Under the Code on Administrative Offences of the Republic of Azerbaijan, the illegal use of other persons' trademarks is punished by a financial sanction in the amount of 2-4 times the amount of damage caused (earned income).

Under the Criminal Code of the Republic of Azerbaijan, a trademark infringement resulting in significant damage is punished by a fine in the amount of 2-4 times the amount of damage caused (earned income) or by up to two years of correctional works or by up to one year of imprisonment. If the infringement results in substantial damage, it is punished by a fine in the amount of 3-5 times the amount of damage caused (earned income) or by up to three years of imprisonment.

Under the Copyright Law, Azerbaijani courts are authorized to require persons who use copyright works without proper authorization to pay damages, irrespective of whether that person knew about the violation or not.

Azerbaijani law also imposes civil, administrative and criminal liability for violation of copyright. Specifically, under the Copyright Law, a court, along with the other civil remedies, may impose the following sanctions on the infringer:

- penalty in the amount of the income received by the infringer;
- compensation in the amount of AZN 110-55,000 instead of payment of damages or income received;
- confiscation of relevant materials and equipment; and
- confiscation and destruction of pirate copies.

Patent infringement can result in civil, administrative and criminal charges. Specifically, a violation of patent rights resulting in significant damage is punished with a fine in the amount of AZN 1,000-2,000 or public works for 320-480 hours. If these actions were committed repeatedly or by an organized group, they are punished with a fine in the amount of AZN 2,000-4,000, correctional works for a period of up to two years, personal restraint for up to two years or imprisonment for up to two years.

18. Product Liability

- What are the sources of Azerbaijani product liability law?

Product liability is an emerging legal concept in Azerbaijan principally governed by the new Civil Code and the law On Consumer Protection dated 19 September 1995 (the "Consumer Protection Law"). The Consumer Protection Law addresses basic consumer issues governing the right to enter into agreements to purchase goods and services, the quality and safety of goods and services, information concerning goods and services, and the right to protect consumer rights in court and to be reimbursed for damage caused by any defects, including moral (psychological) harm.

- Does the law recognize implied warranty of merchantability and fitness for a particular purpose?

Both the Civil Code and the Consumer Protection Law recognize implied warranties similar to implied warranties of merchantability and implied warranties of fitness for a particular purpose (or use) and satisfactory quality. A seller or supplier of merchandise, however, is liable for defects in his or her merchandise covered by a warranty only within the warranty period specified by the contract. Notwithstanding this, if the warranty period is less than two years, the buyer can still assert his or her claim due to defects in goods within two years of receiving the goods, provided that the buyer is able to prove that the defects existed in the goods before they were purchased. If merchandise is sold to a buyer without any warranty, the seller of such merchandise would be liable for any latent defects in the merchandise for a "reasonable time" after purchase, but not later than two years from the date the merchandise was transferred to the purchaser.

Sellers and manufacturers may not, directly or indirectly, restrict any consumer protection rights guaranteed under the Civil Code and the Consumer Protection Law. Provisions of agreements restricting such rights are void. Sellers and manufacturers are obliged to ensure the

proper quality of products and have a duty to inform the consumer of any possible defects.

A consumer may claim compensation from a seller and/or manufacturer where a defect exists, where the consumer has received unreliable or incomplete information concerning the product, or where the product has caused injury to health, life or property. The Civil Code imposes liability on manufacturers and sellers for the death, personal injury and, to some extent, damage to the property of end users regardless of who is at fault. The Consumer Protection Law obliges a court to consider the issue of compensation for moral harm when satisfying consumer claims.

- What are the norms applicable to product quality?

Proper quality is determined by legislative norms and technical specifications applicable to a particular product. Certain goods are subject to mandatory certification by state agencies, in accordance with procedures established by legislation. Advertising and distribution of goods without such certification are prohibited.

- How is the market protected from unfair competition?

In accordance with legislation pertaining to competition and monopolies, the following activities constitute unfair competition:

  - spreading false or incorrect information about the goods and services of a competitor;
  - misleading customers as to the function, place of origin, features, usefulness, or quality of goods;
  - false advertising;
  - unfairly comparing goods in advertising;
  - unauthorized use of trademarks, names of companies or other branding, as well as copying the shape, packaging or appearance of the goods of another legal entity;

- unauthorized receipt, use or disclosure of confidential information, including trade secrets;
- unauthorized receipt, use or disclosure of confidential research and development, production or trade information (including commercial secrets) without the consent of the owner;
- price fixing and other acts designed to limit competition;
- mergers of companies designed to limit competition; and
- restriction of consumers' rights by sole distributors of a product, by virtue of their market position.

19. Oil and Gas

- What is the key feature of subsoil regulation in Azerbaijan?

Subsoil resources, such as oil and gas, are the sole and exclusive property of the Azerbaijani state. Rights to engage in subsoil activity may be granted to Azerbaijani citizens and legal entities, as well as to foreign individuals and legal entities.

The main legislation regulating subsoil use in Azerbaijan is the Law on Subsoil Resources dated 13 February 1998 (the "Subsoil Law"),which governs the exploration, use, protection, safety and supervision over the use of subsoil reserves located both within Azerbaijan and on the Azerbaijani sector of the Caspian Sea. At the same time, the Subsoil Law is not applicable to the use of subsoil with regard to energy matters, such as oil and gas. The energy field is regulated by the Law on Energy dated 24 November 1998 (the "Energy Law"). The Energy Law outlines its scope by providing a list of energy products. The list includes all types of gas but is limited to oil/crude oil and oil/crude oil products extracted from bitumen rocks only.

- What is the legal framework for oil and gas?

In the absence of legislation specifically related to oil and gas, the main legal instruments regulating the oil and gas industry in Azerbaijan remain the Subsoil Law, the Energy Law and production sharing agreements (PSAs). In recent years, there has been a draft Law on Oil and Gas under review by working groups within the government and industry; however, this process has ceased at present.

Azerbaijan is a signatory to the Energy Charter Treaty.

- Who regulates the extraction of oil and gas?

While regulations of the Ministry of Energy of the Republic of Azerbaijan (the "Energy Ministry") suggest that control of oil and gas

matters is generally vested in this ministry, the State Oil Company of the Republic of Azerbaijan (SOCAR) continues to play an important role.

- What type of licenses can be issued in Azerbaijan?

Under the Energy Law, no person or legal entity may engage in oil or gas exploration, exploitation, production, transportation, distribution or use without a special permit and an energy contract. However, no rules on issuance of a special permit have been established yet.

Installation and exploitation of liquid and natural gas facilities require a license for such activity.

- What are energy contracts?

The Energy Law provides that production rights to a specified lot (block) shall be granted on the basis of an "energy contract." Energy contracts are signed between an authorized state body and a supplier which has obtained a special permit.

Under the Energy Law, there are five types of energy contracts:

  - Exploration Contracts;
  - Development and Production Contracts;
  - Contracts on Basic Energy Transportation;
  - Contracts on Energy Distribution; and
  - Contracts on Subsoil Warehouses.

The law sets different terms for each of these contracts.

Exploration contracts are concluded between a contractor and the Energy Ministry or SOCAR. According to the Energy Law, the initial period of an Exploration Contract shall not be more than two years.

This period may be prolonged by an additional one year by mutual agreement between the parties.

Development and Production Contracts are concluded between a contractor and the Energy Ministry or SOCAR for the exploitation of oil and gas fields. The exploitation term is divided into development and production periods. Pursuant to the Energy Law, the development period may be divided into several periods and can be prolonged by up to eight years from the contract date. There is no limitation for the production period.

Energy contracts in the production period may be assigned to third parties or a derivative contract may be executed by a contractor with the special consent of the Energy Ministry and come into force after the registration of the derivative contract.

Energy contracts may be terminated in the following circumstances:

- discovery of material evidence that provides a basis for termination of the contract;
- breach of obligations by the contractor; or
- contractor's failure to properly use rights granted under the contract.

- Are PSAs the main instrument used in the oil and gas market?

All major oil and gas projects to date have been undertaken on the basis of production sharing agreements (PSAs).

Once the PSA with a contractor is signed, the contract is submitted to the National Assembly, which adopts a law on approval of the PSA. This procedure is outlined in the Foreign Investment Law, which underpins the regulatory framework for PSAs.

In recent years, there have been some developments in using risk services agreements instead of PSAs. However PSAs remain the main contractual structure applied in this industry.

- Is it possible to export oil and natural gas from Azerbaijan?

The law On the Application of a Special Economic Regime to Export Oil and Gas Operations dated 2 February 2009 (the "Oil and Gas Operations Export Law") was enacted in an attempt by the Azerbaijani Government to promote the exportation, especially to Caspian littoral states, of oil and gas infrastructure technology and expertise which have accumulated in Azerbaijan over the past years. The law, however, does not apply to activity performed under PSAs, pipeline agreements and/or similar agreements and laws. It is not applicable to the performance of works, services and import-export in relation to oil and gas operations in Azerbaijan and on the Azerbaijani sector of the Caspian Sea, either.

The Oil and Gas Operations Export Law applies to the exportation of oil and gas expertise (activity) by qualified contractors and subcontractors, and sets a separate tax regime applicable to contractors' and subcontractors' exported oil and gas operations. Moreover, contractors and subcontractors are exempt from paying customs duties and VAT on goods (works and services) imported into Azerbaijan in connection with their export oil and gas operations.

Due to elements in the law that differ from the general regime currently in effect, issues are expected to arise in the practical implementation of the law.

- How are oil and gas prices regulated?

Pursuant to the Energy Law, a contractor is free to determine market prices if otherwise is not determined by the legislation. Nevertheless, a separate decision of the Cabinet of Minister provides a list of goods (services and works) that are subject to price regulation by the

government.[23] Oil and natural gas are included into the list and domestic market prices thereof are determined by the Tariff Council.

Meanwhile, the prices of these commodities for sale in foreign markets are not regulated.

[23] Decree No. 178, dated 28 September 2005.

20. Power

- What is the legal framework regulating the power market?

The main legislative acts regulating the power sector are the Law on the Use of Energy Resources (the Energy Resources Law) dated 30 May 1996; the Law on Electric Energy (the Electricity Law) dated 3 April 1998; the Law on Electricity and Heat Power Stations (the Power Station Law) dated 28 December 1999 and the Rules on the Use of Electricity (the Rules on the Use of Electricity) approved by decision of the Cabinet of Ministers No. 18 dated 2 February 2005.

Certain other documents have been adopted at government level to develop the power market in the Republic of Azerbaijan. A recent example of one such document is the Strategic Road Map on the Development of Public Utilities (power and heat energy, water and gas) in the Republic of Azerbaijan approved by Decree of the President of the Republic of Azerbaijan dated 6 December 2016 (the "Road Map"). By providing three strategic visions: (i) the strategic vision up to 2020; (ii) the long-term vision up to 2025; and (iii) the target vision after 2025, the Road Map determines four main directions related to the power energy sector:

- Optimization of expenses, liberalization of expenses and unbundling of power sector components;
- Diversification of the production profile;
- Diversification of the investment profile through the state financing model and IPPs (independent power producers) model; and
- Use of smart metering and networks.

In the meantime, the following state programs have not been adopted yet, but are in the process of development: (i) the State Program on the Development of the Fuel-Energy Complex of the Republic of Azerbaijan (2015-2025); and (ii) the State Program on the Efficient

Use of Energy Resources and the Energy Activity of End-Users (2015-2020).

Nonetheless, legislation on the Azerbaijani power sector has not yet been fully implemented. Many provisions of these laws merely outline the intentions of the state with respect to restructuring the power sector of Azerbaijan and do not reflect its present, true condition.

- How is the renewable energy sector regulated? What are the principal laws and regulations?

To address the growing global concern of air-polluting emissions, in 2004 the president of Azerbaijan approved the State Program on the Use of Alternative and Renewable Energy Sources in the Republic of Azerbaijan. Additionally, the government announced its intention to grant certain benefits to companies wishing to engage in this business, although benefits have yet to be specified in governmental regulations. In 2009, the president created by decree the Agency for Alternative and Renewable Energy Resources at the Energy Ministry to oversee and facilitate the development of the alternative energy industry in Azerbaijan.[24] Further, on 29 December 2011, the president of Azerbaijan issued a decree directing the agency to develop a national strategy for the use of energy derived from alternative and renewable resources during the period 2012-2020. The strategy is still under development.

- What are the market players in the power market?

Under the Electricity Law, the energy system of the Republic of Azerbaijan should consist of the following:

[24] Presidential Decree No. 123, dated 16 July 2009, On the Establishment of the Agency for Alternative and Renewable Resources at the Ministry for Industry and Energy.

- The State Electrical Enterprise,[25] which operates transmission lines of more than 110 kV; dispatch centers; and energy production enterprises. The State Electrical Enterprise purchases energy produced by energy producers for distribution through its transmission network and conducts cross-border electricity exchanges.
- Energy suppliers, legal entities that purchase electricity from the State Electrical Enterprise or independent energy producers, sell energy to consumers.
- Independent energy producers belonging to the state, various economic entities and private enterprises, which are not part of the common state electrical energy system. These producers generate energy for direct supply to consumers through their own distribution networks or via the State Electrical Enterprise or energy suppliers. These entities may also export their excess power to other countries.

Within the framework of the Memorandum of Understanding on the Strategic Partnership between the EU and the Republic of Azerbaijan in the Field of Energy, signed on 7 November 2006, the European Union provides support to Azerbaijan at various levels aimed at the gradual convergence of the European Union's and Azerbaijan's energy legislation and at the integration of their respective energy markets.

- Is there a natural monopoly in the power market?

Some distribution networks of Azerbaijan were operated by private companies under long-term management contracts until recently, when all of these contracts were terminated. In general, privatization of state property began with the First Privatization Program (1995-

[25] Currently, the functions of the State Electrical Enterprise are performed by state-owned Azerenerji JSC.

1998) and in 2000, the second phase of the privatization program was approved by the president to allow privatization of the country's remaining large-scale enterprises. Reforms in Azerbaijan's energy sector also included large-scale privatization. The privatization of distribution networks, however, did not bring the expected results and currently distribution networks are managed by state-owned companies.

The Azerbaijani power sector is a vertically integrated, publicly owned monopoly. Except for several small, private hydropower stations, the state currently owns all generating facilities and transmission lines of more than 110 kV through Azerenerji JSC.

In an effort to eliminate subsidies for electricity, the government intended to permit independent power producers (IPPs) to build and operate new power stations in Azerbaijan, and negotiated with several major private players on the international power market. The Power Station Law grants favorable conditions for power projects of "national importance," including state guarantees for the construction of foreign-owned independent power stations, and guarantees the purchase of power produced from renewable energy resources.

Currently the building and reconstruction of power stations are financed from the state budget, while multinational and foreign banks finance power sector restructuring and reconstruction.

- What are the main permits/licenses?

Under the Electricity Law, a foreign investor wishing to enter into the power market must first obtain a permit to do so and then must conclude a contract with authorized state agencies to carry out the planned energy-related activities.

Generally, special permits to carry out activity in the power sector are granted, and contractors determined, on a competitive basis. The Electricity Law and the Law On Licenses and Permits requires that individuals and legal entities obtain special permission to conduct

activities for the generation of electricity exceeding certain power limits determined by the Cabinet of Ministers, and the transmission, distribution and sale of electricity if not otherwise determined by law. In certain cases, permission may be issued without a tender by decision of the Energy Ministry. The Cabinet of Ministers determined the following power limits for the application of the generation permit:[26]

- For power plants generating energy from alternative and renewable energy sources - more than 150 KW;
- For hydro-power plants and power plants generating power and heat energy through gas derived from bio-mass or another fuel type - more than 500 KW.

The Electricity Law also prohibits the construction and operation of high-voltage installations without prior special permission unless otherwise provided for by law.

All power projects and production, technological processes, services, facilities and devices connected with or related to the use of energy resources and their production, transmission and consumption are subject to mandatory certification, eg, confirmation of compliance with ecological, sanitary, fire, construction and health and safety standards. Additionally, major projects, as defined in the Energy Resources Law, require a feasibility study.

Pursuant to a resolution of the Cabinet of Ministers, special permits are granted to engage in the design, construction and operation of the following types of alternative energy facilities:[27]

i. small hydroelectric stations (50 to 10,000 kilowatts);

ii. geothermal power stations;

[26] Decision No 482 of the Cabinet of Ministers, dated November 24, 2016.
[27] Resolution No. 95, dated May 20, 2010, On the Issuance of Special Permits for Activities in Alternative and Renewable Energy.

iii. power stations with a capacity exceeding 10 kW in which the electricity is derived from wind, sun or biomass.

- What are the specifics of power consumption and distribution in Azerbaijan?

Current Azerbaijani law provides that consumers have the right to choose any energy supplier regardless of its location. Energy is supplied under agreements between consumers and energy suppliers. Agreements on the sale and purchase, transmission and exchange of electricity and heat must comply with the Rules on the Use of Electricity. Energy consumption is subject to mandatory metering.

The procedure for disconnecting consumers from the network (or termination of the power supply) is regulated by the Rules on the Use of Electricity, as well as agreements with consumers. The suspension of, or the disconnection from, the power supply of certain types of consumers is prohibited. The list of such consumers is determined by an authorized state agency.

Under the Energy Resources Law, independent power generation facilities are granted the right to use the state-owned energy supply system for the transmission of electricity. Distribution network enterprises are obligated to grant such access at tariffs and under conditions established by law on a nondiscriminatory basis. These enterprises, however, have the right to refuse to connect a consumer to the network in exceptional circumstances.

To transport and distribute electricity and heat to consumers within a certain area, an agreement with the local executive authorities is required, in addition to obtaining permission. Such an agreement specifies the particular area within which the distributor has the right to operate. Termination of operations specified in the agreement (without the consent of the state authorities) is prohibited.

- Are electricity prices regulated by the state?

Entities and facilities in the unified energy system engaged in power production, transmission, distribution and supply are considered to be natural monopolists, and their activities are regulated by the state. The state may take a number of measures to regulate natural monopolies.

The methods of regulating natural monopolies include setting prices and tariffs, determining which customers the natural monopolists must serve or are required to provide with minimum power supplies, reviewing investments made by natural monopolists and issuing permits for effectuating certain types of transactions. The particular methods are determined and chosen by the state with respect to each natural monopoly.

The following prices for electricity and heat are subject to state regulation:

- Tariffs for the purchase of electricity/heat by producers;
- Wholesale electricity/heat tariffs;
- Retail electricity/heat tariffs; and
- Import-export electricity tariffs.

The Electricity Law requires that tariffs cover all costs connected with the generation, transmission and distribution of power, and that they ensure the profitability of power enterprises and the development of the energy sector. Major chemical and aluminum producers and steel smelters enjoy discounts when they consume electricity beyond a certain threshold.

Tariffs are calculated by the power enterprises set by the Tariff (Pricing) Council and approved by the relevant state authorities.

21. Telecommunications

- What applicable laws apply and who are the competent state bodies?

Telecommunications is an area of great potential growth in Azerbaijan. The Law on Telecommunications[28] (the Telecoms Law) is the main legislative act regulating the industry. Additionally, the Law on Television and Radio Broadcasting[29] and the Law on Postal Services[30] are among the laws governing the telecommunications sector. In addition, the Law on Information, Informatization and Protection of Information[31] regulates some points in the area of IT.

Since the telecommunications services must be licensed, the Ministry of Economy became the agency authorized to issue licenses for express courier services and specific types of telecommunications services including provision of fixed line telephone communication services, cellular (mobile) telephone communication services, radio-trunk and wireless communication services, organization of local and international telecommunication channels, IP-telephony communication services.

The Ministry of Communication and High Technologies (the "MCHT") continues to act as a policy maker and national regulatory authority in the area of telecommunications, although there have been some initiatives in recent years to establish an independent regulatory authority.

[28] Law No. 927-IIQ of the Republic of Azerbaijan On Telecommunications, dated 14 June 2005.
[29] Law No. 345-IIQ of the Republic of Azerbaijan On Television and Radio Broadcasting, dated 25 June 2002.
[30] Law No. 714-IIQ of the Republic of Azerbaijan On Postal Services, dated 29 June 2004.
[31] Law No.460_IQ of the Republic of Azerbaijan On Information, Informatization and Protection of Information, dated 3 April 1998.

Additionally, there is a body that regulates the implementation of a general policy in the field of television and radio broadcasting which appears to be the main part of the telecommunication regulation. The National Television and Radio Council of Azerbaijan (the "NTRC") operates under Decree of the President dated 5 October 2002.

- Is a license required and what are the procedures for obtaining a license?

The Telecoms Law requires equal treatment of all telecommunications operators, providers, users and subscribers. Specifically, the law provides that all telecommunications operators and providers, without regard to their ownership structure, operate on an equal footing.

Generally, foreign legal entities and individuals must obtain a license to provide express courier services or licensed telecommunications services on an equal footing with Azerbaijani nationals. However, the licenses issued for foreign legal entities, their branches or representative offices or to foreign individuals can be recognized in Azerbaijan and subsequently this requirement may be waived on the basis of existing international agreements. Licenses are issued for an unlimited period of time.

For instance, to obtain a license in television and radio broadcasting, the following documents must be submitted:

- a statement to the NTRC as the body conducting the tender;
- if the applicant is a legal entity, - a program concept, copies of the document on the state registration and the charter;
- if the applicant is an individual, - a software concept;
- information on the creative and technical capabilities required for broadcasting;

- document on making a one-time payment for participation in the competition for obtaining a license.

The NTRC decides to issue a special permit (license) no later than 60 days after the announcement of the tender and submits it within 15 days of the date of announcement of the results of the competition.

The NTRC adopts a form of license. The operation of a license does not apply to the successors of the broadcaster or to the legal persons established by it.

To receive a license, the broadcaster pays the state fee in accordance with Law on State Duty. The amount of state fee depends on the type of television broadcasting.

Activity on TV and Radio Broadcasting

For nationwide TV broadcasting the state fee is AZN 50000; TV broadcasting in Baku is AZN 2250; for broadcasting over cable network with a number of subscribers up to 5000 is AZN 1500, over 5000 subscribers is AZN 2500.

- What are the procedures for the use of radio frequencies?

Under the Telecoms Law, the state has exclusive ownership of all radio frequencies. The Telecoms Law provides that the allocation and use of radio frequencies are subject to state regulation. Decision of the Cabinet of Ministers on Allocation, Registration, Use and Determination of Payments Rules for Radio Frequencies dated 1 February 2007 defines the principal guideline on the use of radio frequencies in the territory of Azerbaijan. The Rules specify the procedure as well as for state bodies and personal use.

The State Radio Frequencies Commission (the "Commission") is authorized to issue radio frequency use permits to telecommunications businesses, whereas the State Radio Frequencies Department allocates and registers radio frequencies on the basis of the Commission's permit.

- Are radio frequency emitters subject to registration?

The allocation of radio frequency is performed on the basis of an application to the Commission. In case of civil use of radio frequency, the Commission delegates the application investigation to the Secretariat (working group). The investigation includes obtaining information on the technical characteristics of equipment, the certificate submitted by the applicant and other necessary documents.

Each request is subject to discussion at the next meeting of the Commission. The Commission considers all vies and suggestions, and afterward makes a decision.

The following factors impact the Commission's decision:

- technical characteristics of the radio frequency;
- normative technical documents meeting the requirements of the electromagnetic field and electronic combination;
- the terms of the given license for the use of the radio frequency.

Rates on the registration of a radio frequency for civil use are determined taking into account the term (monthly or annually used), number of channels used and their destination.

Applications submitted to the Commission shall be answered no later than two (2) months.

- Do any local storage obligations apply to communications providers?

First of all, it is reasonable to refer to the legislative definition of communication provider. The Telecoms Law says that a telecommunication provider is an individual or legal entity engaged in telecommunication services using a telecommunication operator network. Providers preform the service to the subscribers. Thus, such service triggers information collection and processing.

Among this information can be information:

- that makes it possible to identify the subscriber or his/her latest equipment; the subscriber's address; the main elements of the service used (personalization number, duration of use, volume, etc.);
- on payments made by the user to the person providing telecommunications services; alerts by telecommunications service providers and restrictions on telecommunications services.

Any of above-mentioned information should be protected by providers and cannot be given to third parties without a legal basis. Operators, providers specified in the civil legislation, should provide a data limitation period. An additional note is to mobile telecommunication services on the network operators' roaming communication. They have to provide storage related to foreign users for a minimum of one year.

- What are the rights of telecommunications users?

The Telecoms Law identifies a subscriber (user) of telecommunication services as a person who uses telecommunications services on the basis of a contract concluded with the operator or provider. Article 34 of the same Law defines rights and obligations of subscribers. Their rights are as follows:

- to freely choose the operator, provider;
- to require high-quality telecommunications services;
- to require measures to protect children from information that may harm their health and development;
- to appeal against the actions of operators, providers;
- to exercise other rights established by the legislation.

As well as telecommunication, users bear the following duties:

- to comply with the rules for the use of telecommunications services established in accordance with legislation;
- to connect terminal equipment to the telecommunications network in accordance with the agreements concluded with the operator, provider, standards established by law and other requirements;
- do not allow actions that jeopardize the operation, integrity, interconnection, information protection of telecommunications networks, electromagnetic compatibility of radio electronic means, as well as impeding or making it impossible to provide telecommunication services to other entities;
- to comply with the terms of contracts concluded with the operator, the provider, including timely payment for used telecommunications services;
- to create, in the manner prescribed by law, the conditions for an authorized representative of the relevant executive authority to verify on site the terminal equipment used.

- What legal interception rules apply?

Azerbaijani law specifies that telecommunication providers have to provide state authorities (law enforcement authorities) with information about the clients and services rendered to them.

Notwithstanding Article 38, Telecoms emphasizes the confidentiality of information transferred through telecommunication networks. All operation provides are obligated to protect this confidentiality under the laws of the Republic of Azerbaijan. The next article of the Telecoms Law especially underlines intelligence cooperation. Pursuant to the article, operators, providers, are obligated to provide

telecommunication networks with additional technical means to enable operational search, provide telecommunication networks with additional technical means for this purpose and address organizational issues and keep confidentiality.

Moreover, the law requires providers to respond to inquiries of the relevant executive authority, court or law enforcement agency no later than three working days and to submit the required information (if the request is made by the requesting authority, on the promptness of the inquiry regarding the urgency of the information, but not later than 24 hours).

- What technical regulation requirements apply?

The state regulation of telecommunication services implies the licensing and certification of it. Under the Law On Licenses and Permits (Appendix 1) a license should be issued by the Ministry of Economy of the Republic of Azerbaijan at "ASAN" services.

Each type of telecommunication service has a license fee. For instance, state duty of license for wireless telephone is AZN 2500; IP telephony is AZN 50,000; and data transmission is AZN 3,000.

According to the Law On State Duty, the state fee for cellular communication license is approved to be AZN 1 million (USD 578,168.36) compared to AZN 22,000 (USD 12,940). And since 1994, three cellular communication providers have been operating in Azerbaijan. All three provide modern technology services including EDGE. Cellular communication services are licensed for 10 years. At the same time, a license agreement must be signed between the licensee and the licensing authority within 30 days of the date the license was issued. If a license agreement is not signed, the license granted to this type does not involve legal consequences.

Additionally, certification is one of the methods of regulation. The main objective of certification of telecommunication means and facilities is to create and develop telecommunication and market

facilities in the Republic of Azerbaijan, to determine the technical parameters of telecommunication; establish necessary conditions for the activities of enterprises and organizations in the market, determine technical levels of telecommunications facilities, provide consumers with high-quality products and increase the technical level and quality of telecommunications equipment and facilities. The required timeframe for telecommunication means and facilities is 30 working days.

Also, standardization is a form of regulation in telecommunications. The MCHT and State Committee for Standardization, Metrology and Patent of the Republic of Azerbaijan jointly coordinates the work on the preparation and examination of national standards in line with international requirements and recommendations. The Information and Communication Technologies Technical Committee is the authority functioning for these purposes.

- Are there any regulations in the IT sphere?

State policy on regulation in the telecommunications field provides registration and recording of internet providers as well.

The activity of internet providers must be registered within 15 days from the commencement date. In case of any change to their registration information, they should notify the relevant state authority within 10 days.

The rules on establishing relations with consumers are included in the Project on the Regulation of Organization and Transportation of Broadband Asymmetric Digital Subscriber Lined through the Management System presented on the MCHT's website.[32]

[32] Source: http://www.mincom.gov.az/qanunvericilik/qaydalar/# (accessed 8 December 2017).

According to these Rules, internet providers should organize access for operators and suppliers to the Management System to:

- supervise the timely provision of broadband internet services;
- check the accuracy of information provided by operators and suppliers in the management system; and
- monitor the updating of data and protect trade secrets, including confidential and personal data.

The Telecoms Law also recognizes the right of foreign individuals and legal entities to own and operate networks and devices in Azerbaijan. Such devices must be jointly certified by the MTCHT and the State Committee for Standardization, Metrology and Patents and their subordinate bodies, as well as by accredited test laboratories.

The provision of internet services and communication at affordable prices has been developing at a rapid pace.

High Tech Park was established with a decree of the president of Azerbaijan 2012 on the island of Pirallahi (which is a district of Baku city) and is subordinate to the MTCHT. It is the cornerstone project of Azerbaijan's planned high-tech economic development. Its mission is to foster a high-tech economy in Azerbaijan by providing a business-friendly environment composed of state-of-the-art facilities, economic incentives and business services. The aim is to achieve this by being a change agent in the ecosystem - making policy recommendations that support the high-tech sector, holding a series of events to become the hub of high-tech knowledge activities in the region and by partnering renowned international institutions that share this vision.

On 8 November 2016, the president of the Republic of Azerbaijan signed a Decree On the Establishment of High Technologies Park under the Azerbaijan National Academy of Sciences (ANAS). The Decree provides for the establishment of "ANAS High Technologies Park" LLC as a separate legal entity. The main purpose of the Park is

to strengthen state support for increasing competitiveness and ensure continuous growth of the economy, develop innovation and highly technological sectors based on contemporary scientific and technological achievements, conduct scientific research and create modern systems on the processing of new technologies.

22. Personal Data

- What law applies and what is the competent state body?

The protection of personal data in Azerbaijan is primarily governed by the Law On Personal Data, dated 11 May 2010 (the "Personal Data Law"). The Personal Data Law regulates the protection of personal data of physical persons (individuals) and does not extend to data about legal entities.

The authority that protects personal data issues is the Ministry of Communication and High Technologies (the "MCHT").

- What is personal data and data processing?

"Personal information" or "Personal data" is broadly defined to include any information which allows, either directly or indirectly, to identify a data subject - an individual, to whom personal data relates. Given the broad definition of data, in certain circumstances a certain degree of judgment is necessary to determine what exactly constitutes personal data. Data on fingerprints, voice fragments and their acoustic parameters, facial descriptions, irises, DNA analyses, body sizes, signatures and handwriting, as well as other biometric data, are also protected by law as personal data.

The Personal Data Law establishes three types of personal data: (1) "open," (2) "sensitive," and (3) "confidential."

Under Section 5.3 of the Personal Data Law, "open personal data" is data which:

(i) was "anonymized," eg, does not refer to the name of the data subject and it is not possible to identify the person to whom the specific data relates;

(ii) the data subject has designated as "open;" or

(iii) was included in publicly available information systems (such as websites) with the data subject's consent.

Notwithstanding item (i) above, Section 5.3 provides that a person's first, last and patronymic names are always deemed "open personal data."

Therefore, "open personal data" is generally data that has been made public with the written consent of the data subject. The Personal Data Law does not specifically govern collection and use of personal data after they have been made public, except that the data subject is entitled to demand removal of the data from an information system and demand the discontinuance of the use of his/her data.

"Sensitive personal data" is defined in Section 2.1.6 of the Personal Data Law as any data relating to the data subject's:

(i) ethnic origin or nationality;

(ii) family life (including marriage registration, child adoption, etc.);

(iii) religious beliefs and thoughts;

(iv) health conditions; and

(v) criminal history.

This list appears to be similar to the definition of "sensitive data" as that term is used in many European Union countries.

Any data other than "open personal data" and "sensitive personal data" as are defined above is considered "confidential personal data."

The Personal Data Law does not apply to the collection, processing and protection of personal data for the purposes of national security, intelligence, criminal investigations by the state authorities or for personal and family needs by individuals.

In the scope of processing and accumulation of personal data in the sphere of intelligence, operational-search activities are classified as state secrets and data is accumulated in the National Archive of Azerbaijan Republic.

The Personal Data Law also excludes the processing of personal data by natural persons purely for household purposes, which is known as household exception.

The Law is totally silent on the issue of type of processing. It does not mention to what kind of processing it relates, whether the processing is performed by automatic or manual means. The definition referring to processing of personal data in Article 2.1.8 of the Law merely enumerates the operations covered under the term of processing and does not specify whether those operations are performed by automated or manual means.

- What are the basic requirements of data processing?

Data processing is an important process of formation and the creation of information resources of personal data should be carried out in accordance with the principles of:

(i) legality;

(ii) confidentiality; and

(iii) coordination voluntariness with coercion.

Moreover, the Personal Data Law sets that posing a threat to human life and health and the humiliation of a person's honor and dignity are prohibited.

The Personal Data Law provides that unless the collection and use of personal data is required under Azerbaijani law, personal data may be collected and processed only upon the data subject's (i) written consent, (ii) enhanced electronic signature on the electronic document or (iii) based on information submitted by the data subject.

- What requirements should be met to transfer personal data to third parties?

To transfer information to third parties, the data subject's written consent should include: (i) the identity of a data subject, (ii) the identity of a data operator (as data owner that carries out collection, use and protection of personal data or a legal entity or an individual, as well as a state body, empowered by a data owner) or owner (a state body, legal entity or an individual who owns, uses and disposes of the information system and determines the purpose of personal data use) who seek the subject's consent, (iii) the purpose of collection and processing of the data, (iv) a list of collected data and processing operations, (v) the consent's expiry date and terms of its revocation before such date, and (vi) terms of destroying and archiving personal data in the event of expiration of the consent or death of the data subject. The responsibility for obtaining the data subject's consent lies primarily with the party who seeks to disseminate the data. With regard to (ii) above, under the law On Electronic Signatures and Electronic Documents, dated 9 March 2004, enhanced electronic signatures should be certified by a certification center approved by the Ministry of Communications and High Technologies of the Republic of Azerbaijan (the "Communications Ministry" or "Ministry"). With regard to (iii) above, while the law deems implied consent when a person submits his/her personal data him/herself, such implied consent would only be applicable in the case of mere collection and processing of personal data. Thus, the data subject's consent is required to transfer data.

According to the Personal Data Law, cross-border transfer of personal data is generally allowed, subject to (i) the data subject's written consent, or (ii) electronic consent approved by an enhanced and certified electronic signature. It is evident from Section 14.2 of the Personal Data Law that the law allows cross-border transfer of personal data, provided that: (i) this does not damage Azerbaijan's national security, and (ii) the level of protection afforded to the transferred personal data in the receiving jurisdiction is not lower than

the level of protection provided under Azerbaijani law. In cases when a data subject consents to the transfer of his/her personal data and the transfer is required for the protection of the data subject's life and health, such a transfer could be made without regard to the level of protection in the receiving jurisdiction.

- Where can personal data be stored?

The Personal Data Law provides for registration of Personal Information Systems in accordance with the decision of the relevant executive authority. Pursuant to the Law, Personal Information Systems shall mean information systems providing the collection, processing and protection of personal data. The rules for registration are defined by decision of the Cabinet of Ministers on the Registration of Personal Information Systems. Personal data cannot be processed without the registration of Personal Information Systems. However, the third paragraph of the Law provides for exemptions from registration:

1. The personal information systems regarding the information is classified as a state secret;

2. The personal information systems containing personal data of subjects who are in employment relationships with the controller or processor;

3. The personal information systems are not required to be registered in accordance with the decision of the relevant executive body.

The relevant executive body within this context is the Cabinet of Ministers of AR, which adopted decision No. 237 on the approval of "Personal Information Systems which are not required to be registered." In accordance with the decision, the following information systems are exempted from state registration:

- Public information systems containing anonymized data, information made publicly available by the data subject;

- Information systems containing archived personal data;
- Information systems of state or municipal bodies, where those systems contain personal data of less than 1000 subjects;
- Information systems containing data necessary for the protection of life and health of data subjects where such systems contain personal data of less than 1000 subjects;
- Information systems containing data for the purpose of scientific or statistical research where such systems contain personal data of less than 1000 subjects;
- Information systems of social unities, trade-unions and other non-commercial organizations, containing the personal data of their members, subject to the condition that the data could not be given to third parties without the consent of the data subject where such systems contain personal data of less than 1000 subjects;
- Information systems containing personal data collected and processed with the written consent of the data subjects (name, address, phone number, sex, date of birth, occupation, photo, etc.) in the field of telecommunications, mail service and other fields, which are intended to provide information to the public and open to consultation, where such systems contain personal data of less than 1000 subjects.

- Are there any state authorities to be notified if the company begins to process personal data?

Article 15.2 of the Personal Data Law prohibits the collection and processing of personal data unless the information systems (eg, online or paper-based databases of personal data) are state registered. Article 15.3 of the Personal Data Law and Resolution No. 237 of the Cabinet of Ministers of the Republic of Azerbaijan, dated 17 December 2010

("Resolution No. 237") determine the types of information systems that do not need to be state registered. Among others, the information systems with personal data submitted by the data subject or disclosed based on the data subject's consent for use in publicly available information sources are not subject to state registration.

Under Resolution No. 149 of the Cabinet of Ministers of the Republic of Azerbaijan On State Registration and Cancellation of State Registration of Information Systems, dated 17 August 2010 ("Registration Rules") information systems should be registered with the Communications Ministry.

To register the information system, the applicant (data operator or data owner) should submit the following documents to the Communications Ministry:

- application, in the form enclosed in the Registration Rules;
- completed Registration card, in the form enclosed in the Registration Rules;
- additional documents, which might be requested by the Ministry for clarification purposes.

The above documents could also be submitted electronically and accepted only if certified by an enhanced electronic signature. In this case, the Ministry's decision on registration of the information system comes into force only upon receipt by the Ministry of the original or notarized copies of the above-listed documents.

The authorized representative of the Communications Ministry considers the registration documents within one month, and if no discrepancies or shortcomings are revealed, makes respective notes in and issues to the applicant an extract from the State Registry of Information Systems.

As a matter of practice, local registration requirements are not applicable to databases/websites registered/operated outside Azerbaijan. However, if data is collected through a local information system, such processing will be permitted only upon state registration of the local database. Local databases should be state registered with the Communications Ministry. On the contrary, if all the data is collected and stored outside Azerbaijan and data distribution also comes from other countries, there is no need for registration.

Attachment No. 1 to the Law On Licenses and Permits (No. 176-VQ dated 15 March 2016) (the "Licensing Law") and Attachment No. 2 to Presidential Decree No. 713, dated 21 December 2015, provide for the list of activities that are subject to licensing and permits. Specifically, the acts require a license for the transfer of information (data). Therefore, only persons possessing a special permit (license) from the Communications Ministry are allowed to provide data transferring activities within the Republic of Azerbaijan.

- How do companies protect personal data in Azerbaijan?

Under Azerbaijani law, protectable data comprises (i) state secrets, (ii) commercial secrets and (iii) personal data.

State secrets are defined and listed in the Azerbaijani Law On State Secrets, dated 7 September 2004 (the "State Secrets Law"), which defines the following two basic elements of state secrets: (i) they are related to national defense, security, intelligence, foreign policy, economic security or criminal investigations, and (ii) the disclosure of such information would undermine Azerbaijan's national security, economic security and defense.

Legal entities protect their data by classifying them as commercial secrets under the Azerbaijani Law On Commercial Secrets, dated 4 December 2001 (the "Commercial Secret Law"). For a legal entity, the principal method of protecting information is to enter into a confidentiality agreement, which could be a provision in any

agreement. If there is a confidentiality agreement in place, the data must be used in accordance with that agreement.

- What is the liability for personal data legislation infringement?

According to Article 181-4 of the Administrative Offences Code, violation of personal data laws is punishable by a fine of AZN 300 up to AZN 500.

Under the Criminal Code, a person who breaches the secrecy of correspondence, telephone conversations, postal, telegraphic and other means of communication is punished with fine of AZN 100 up to AZN 500; or correctional work for up to one year.

Criminal liability for the dissemination of a state secret is imprisonment for 2-5 years.

Article 156 of the Criminal Code penalizes the dissemination, selling or passing of information, as well as video, audio and photo recordings containing personal and family secrets with a fine of AZN 100 up to AZN 500; or public work for 240-480 hours; or correctional work for up to one year.

23. Construction

- What are the sources of Azerbaijani construction law?

The main legislative acts regulating construction are the Code on Urban Planning and Construction, dated 29 June 2012 (the Construction Code), and the Civil Code. Other legal documents in this area are normative acts of a general nature such as property, land, safety, environmental protection, fire and sanitary regulations; construction rules, norms, and standards; and legislative acts regulating specific sectors where structures or facilities are constructed. Many construction rules and standards of the USSR (GOST and SNIP) are still effective in Azerbaijan.

- Can foreign nationals and foreign contracts engage in construction work?

Foreign nationals and foreign legal entities may conduct construction work in accordance with the Construction Code.

- What is the procedure for obtaining a construction permit?

With the exceptions stipulated by law, an owner needs a permit to commence construction work. The application of the owner to the relevant local authority for a permit must contain the following documents:

(a) document confirming ownership, use or lease rights over the land plot;

(b) project documentation; and

(c) if the owner is a legal entity, an extract from the state register of legal entities.

The local authority checks the application for completeness within five (5) days. If any document is missing, the local authority notifies

the applicant of this, who then has ten (10) days to present the missing document.

Once the completeness of the application is ensured, the local authority obtains opinions of the relevant state authorities (eg, the Ministry of Emergencies, the State Committee for Urban Construction and Architecture). The local authority must also notify the interested persons (close neighbors and neighbors) and take their views into account. Moreover, the local authority must obtain an expert opinion of the General State Department for Expert Examinations under the Ministry of Emergencies (ME) for the permit proceedings. The Rules On Expert Examination of Construction Projects were adopted by Presidential Decree No. 348 dated 17 November 2014. These rules determine the mechanism for expert examination of the compliance of construction projects. Overall, the local authority must consider the application for a construction permit within one (1) month if there is a general plan for the territory where the construction shall take place, or within three (3) months if no such general plan exists.

If the application is successful, the local authority provides the applicant with a decision to issue a permit, with a special sign/notice, which is the basis for commencement of the construction works and the technical conditions for the construction.

If the construction is not commenced within three years of the date of the permit, or if the construction is suspended for three years, the permit is no longer effective.

- What is the procedure for exploitation of a completed construction?

Finally, a completed construction for which a construction permit is required cannot be used without an exploitation permit. The owner of the construction must apply to the local authority with following documents for an exploitation permit:

(a) construction permit;

(b) acts issued by relevant organizations confirming that internal and external engineering-communication systems are ready for exploitation;

(c) letter regarding the address of the construction;

(d) act of acceptance of the elevators for exploitation;

(e) letter from the local executive authority regarding the acceptance of connected communication lines;

(f) letter from the Center for Hygiene and Epidemiology regarding the compliance of the construction with sanitary-hygienic and sanitary-epidemiological requirements;

(g) letter regarding the main project and factual characteristics of the construction;

(h) letter regarding the financial expenses of the construction (if it is constructed with state funds);

(i) act of the construction's compliance with fire safety requirements;

(j) ecological safety act for industrial and production facilities from the Ministry of Ecology and Natural Resources;

(k) act of the State Agency for Supervision of Safety in Construction under the ME issued along with participation of the representatives of the owner, contractor and the designer regarding the compliance of the construction work with urban and construction normative acts and the construction project;

(l) permits for the parts of the construction which were issued before final and full use of the construction.

Some specific types of facilities require additional documents to obtain an exploitation permit. For example, to obtain an exploitation permit for roads, the owner needs to present an act from the State Traffic Police of the Ministry of Internal Affairs on the readiness of the roads for use.

The local authority must respond to the application within 30 days. It may either reject the application or grant a permit for exploitation of the construction.

Apart from the usual permits, construction works in certain areas (such as cultural and historical reserves) require additional authorization from state authorities.

- What are the grounds for suspension or demolition of a construction?

The ME has special powers in the construction sphere. Among others, it has the power to suspend construction and/or to demolish buildings. The Construction Code lists certain grounds for the suspension of construction work.

The Construction Code establishes certain rules for demolishing complete or incomplete constructions. The decision on demolition may be issued either by the ME or by the courts.

24. The Judicial System

- What is the main legislation governing the judicial system?

The Code of Civil Procedure[33] (the "CCP"), Code of Criminal Procedure[34] (the "CrPC"), Code of Administrative Procedure[35] (the "CAP"), the law On Enforcement[36] (the "Enforcement Law"), the law On Courts and Judges[37] (the "Courts Law"), the law On the Constitutional Court and the law On the Judicial-Legal Council are the principal laws governing the dispute resolution process in Azerbaijan.

- What are basic distinctions between the jurisdictions of courts in the Azerbaijani judicial system?

Azerbaijan has a three-tiered judicial system in civil, commercial and administrative disputes: trial courts, appellate courts and the Supreme Court of the Republic of Azerbaijan.

The basic distinction between the jurisdictions of the courts is in the nature of the disputes resolved by the courts. As such, civil claims, which mainly involve individuals who are not engaged in entrepreneurial activities, are reviewed by district courts. Commercial disputes involving parties (including individuals engaged in commercial activities without establishment of legal entities, as well as legal entities) engaged in entrepreneurial activities are resolved by

[33] The Code of Civil Procedure of the Republic of Azerbaijan, effective as of 1 September 2000.
[34] The Code of Criminal Procedure of the Republic of Azerbaijan, effective as of 1 September 2000.
[35] The Code of Administrative Procedure of the Republic of Azerbaijan, effective as of 1 January 2011.
[36] Law No. IIQ-243 of the Republic of Azerbaijan On Enforcement, dated 27 December 2001.
[37] Law No. IQ-310 of the Republic of Azerbaijan On Courts and Judges, dated 10 June 1997.

administrative-economic courts. Finally, disputes against government agencies are resolved by administrative-economic courts as well.

- What is the procedure for resolving civil and economic disputes?

The procedures for resolving civil and economic disputes are almost identical. The main difference lies in the courts reviewing these two distinct types of disputes: civil disputes are resolved by district courts and economic disputes are resolved by administrative-economic courts.

Both types of disputes may flow through three stages: trial court, appellate courts and cassation proceedings. The proceedings in the trial court may be divided into following stages:

1. pre-claim letter to defendant(s) (request for voluntary performance);
2. pre-trial preparation;
3. filing of a statement of claim and preliminary finding on admissibility;
4. notification to parties;
5. pre-trial pleadings; and
6. trial.

During the pre-claim letter phase, a plaintiff usually requests the defendant to comply with the plaintiff's demands voluntarily. In commercial disputes, issuance of the pre-claim letter can be statutorily required.

Once the defendant refuses to comply with the pre-claim letter or does not respond thereto, the plaintiff starts preparing its statement of claim. Plaintiffs are required to plead both the facts and the law in their statement of claim. Moreover, the plaintiffs at this state collect

their evidence, and determine potential witnesses and litigation strategy.

After preparing the statement of claim, the plaintiff files it with the court. Having received the statement of claim, the trial court makes a preliminary determination on admissibility of the claim. If the claim is not admissible, the trial courts rules the inadmissibility thereof.

If the claim is admissible, the trial court notifies the parties of the preliminary hearing date and time and provides copies of the statement of claim to the defendant and third parties (if any).

Having received a copy of the statement of claim, the defendant may admit the claim wholly or partly, or deny it. In any case, the defendant is obligated to submit its response expressing its position on the claim with the court. In addition, at this stage, the parties may file motions with the court on any procedural preliminary matters.

Azerbaijan has an inquisitorial court system as opposed to adversarial. Therefore, the trial is mainly controlled and directed by the court, rather than the parties. Nevertheless, Azerbaijan recognizes the principle of adversarial proceedings and the parties are provided with necessary autonomy in pleading their claims.

Proceedings in the trial court are handled by a single judge. The trial is conducted as a series of hearings.

The judge opens the hearing and resolves the preliminary procedural issues, such as identification of parties, authorities of their attorneys, the manner of presenting evidence, etc. Then, the plaintiff and the defendant are invited to make their opening statements. After the opening statements, the parties may introduce their evidence. Once all evidence is introduced and examined by the court, which may take several hearings, the trial court requests the parties to state their closing statements. Once the closing statements are made, the judge goes to the deliberation room to decide the case. The trial court announces its decision after the deliberation.

- What is the procedure for obtaining interim remedies in civil and economic disputes?

The Code of Civil Procedure allows a party to seek interim remedies at all stages of proceedings after the statement of claim is filed. An order of a court on interim measures to ensure future enforcement of the judgment is a temporary measure and does not resolve the dispute on substance.

The Code of Civil Procedure requires only one element to be present for granting an interim remedy: the interim remedy sought must be directed to the future enforcement of the judgment, ie, the party must seek a measure which will ensure the judgment is capable of being enforced in the future.

Nevertheless, in practice, the courts usually review whether the claim is likely to be satisfied before granting an interim remedy.

Interim remedies which may be awarded by the courts include arrest of property, prohibition against the defendant taking certain actions, prohibition against third parties taking certain actions related to the subject matter of the dispute and other measures stipulated by the Code of Civil Procedure. The courts may also apply several interim measures in combination.

The interim remedies are sought by filing a written motion with the court. The motion shall be reviewed immediately after receipt. The court is entitled to review the motion for the interim remedy without attendance of the opposing party. Nevertheless, the court must immediately notify the opposing party of the interim remedy it granted.

The party against whom the interim remedy was awarded may file an interlocutory appeal from the order. An appeal from the interim remedy order does not suspend enforcement of the order.

- What is the procedure for resolving administrative disputes?

Administrative disputes are resolved in a manner similar to economic disputes. At the trial court level, they are handled by administrative-economic courts with a single judge.

Administrative disputes are regulated by the Code of Administrative Procedure. The main difference between administrative and economic disputes is that administrative disputes may be handled through pleadings up until the parties have presented all of their evidence. Thereafter, the court may appoint an oral hearing. The oral hearing is conducted in a manner almost identical to a trial in economic disputes. After the oral hearing, the court shall announce its decision.

- What is the procedure for obtaining interim remedies in administrative disputes?

The Code of Administrative Procedure contains more elaborate rules on obtaining an interim remedy. Unlike civil and economic cases, in administrative disputes an interim remedy may be sought even before the statement of claim has been submitted. A court may prohibit the defendant from doing certain actions or impose an obligation to take certain actions, as well as order other measures. Moreover, plaintiffs may seek the court to suspend the enforcement of an administrative act of the government agency. The plaintiff shall demonstrate that its claim is likely to be satisfied for obtaining an interim measure order.

A court's order on an interim remedy may be appealed by the interested parties. Moreover, the court, in its discretion, may revoke the interim measure at any stage of the proceedings.

- What is the procedure for enforcing judgments and other judicial acts?

Enforcing judgments and other judicial acts are governed mainly by the Enforcement Law. Once the court act becomes effective and binding, the court issues a writ of execution and sends it to the

enforcement officers (bailiffs) of the General Department for Enforcement under the Ministry of Justice of the Republic of Azerbaijan. Bailiffs' orders and instructions in the course of performance of their functions are mandatory in the Republic of Azerbaijan.

Having received the writ of execution, the bailiff must review whether the writ of execution complies with the requirements of the Enforcement Law. If it does, the bailiff must commence enforcement proceedings within three days as of the date of receiving the writ of execution. The enforcement proceedings are commenced by the bailiff's respective decision. This decision shall be served on the parties within one day.

As a matter of practice, the decision on commencement of enforcement proceedings provides the defendant with 10 days for voluntary execution of the court's act. The decision also notifies the defendant that, upon failure to execute the act voluntarily, the defendant would be subject to compulsory enforcement measures. Such measures include an enforcement fee in the amount of 7% of the total court act award, arrest of property, search of the defendant, restriction on leaving the country and other measures.

Although the Enforcement Law requires the bailiffs to finalize enforcement proceedings within two months (this period may be prolonged for an additional month in exceptional cases), as a matter of practice, enforcement proceedings may take up to one year.

- How is the enforcement of foreign judgments and arbitral awards regulated in Azerbaijan?

The procedure for the recognition and enforcement of foreign judgments in Azerbaijan is established by the CCP. The Supreme Court deals with recognition and enforcement issues. While recognizing and enforcing foreign court judgments in Azerbaijan, the Supreme Court must be guided by domestic laws as well as by

international treaties to which Azerbaijan is party. Foreign court judgments are recognized based on the reciprocity principle.

Azerbaijan has entered into several bilateral treaties (principally with neighboring states) to facilitate the enforcement of foreign judgments. It is a party to the 2004 CIS Convention On Mutual Legal Assistance in Civil, Family and Criminal Cases (the "Kishinev Convention"). The Kishinev Convention applies to both individuals and legal entities. Under this convention, citizens and residents of a contracting state are exempt from court and notarial fees and associated costs, and are entitled to receive free legal assistance.

In addition, Azerbaijan is a party to the convention On Resolving Business Disputes, dated 20 March 1992 (the "Kiev Convention"). The Minsk Convention On Mutual Legal Assistance in Civil, Family and Criminal Cases, dated 22 January 1993, is no longer effective.

There is no specific timeframe within which foreign court judgments must be enforced. In practice, consideration and issuance of a decision on recognition and enforcement may take up to six months.

Foreign investors may rely on the provisions of the CCP and the law On Protection of Foreign Investments dated 15 January 1992 (the "Foreign Investment Law") pursuant to which investment disputes may be resolved either by Azerbaijani courts or in accordance with the dispute resolution procedures agreed by the parties. This may include international arbitration, either in Azerbaijan or abroad.

International arbitration in Azerbaijan is conducted in accordance with the rules prescribed by the law On International Arbitration dated 18 November 1999 (the "Arbitration Law"). Under these rules, the parties may select independent arbitrators of any nationality, proceedings may be conducted in any language chosen by the parties, the applicable substantive law (except for matters that must be exclusively resolved under Azerbaijani legislation) and procedural law may be chosen by the parties, and, in general, the parties may stipulate

other terms of the arbitration. Where no such terms are stipulated by the parties, the Supreme Court may resolve such omissions.

Azerbaijan has acceded to the United Nations Convention On the Recognition and Enforcement of Foreign Arbitral Awards dated 10 June 1958. On 19 September 1992, Azerbaijan acceded to the 1965 Washington Convention On the Settlement of Investment Disputes between States and Nationals of Other States, which provides for arbitration at the International Centre for Settlement of Investment Disputes (ICSID). Azerbaijan has also ratified the European Convention On Foreign Commercial Arbitration dated 21 April 1961.

- What are the recent developments in the Azerbaijani judicial system?

By Presidential Order No. 268, dated 13 February 2014, a new electronic court system must be established. The electronic court system will ensure electronic receipt of applications, complaints and other documents, electronic circulation of documents and maintenance of case files, automatic distribution of incoming complaints among judges, maintenance of electronic calendars of cases, notification of the parties by electronic communication and other pertinent issues.

By law No. 330-VQD On Amendments to the Code of Civil Procedure, effective as of 1 January 2017, statements of claim, petitions, complaints and other documents in economic disputes may be submitted to the courts either in writing or through an electronic cabinet created within the Electronic Court system. Electronic submissions must be made in accordance with the rules set forth by the law On Electronic Signature and Electronic Document.

Court notices to the parties to economic disputes, which are registered within the Electronic Court system, must be served by means of placing the notices into the electronic cabinets of those parties in the Electronic Court system. The courts shall notify them in this regard either by text message (SMS) or by email. All hearings in economic disputes will be recorded in their entirety by audio-video devices.

Audio-video recordings of hearings shall be added to hearing protocols. Parties to economic disputes are entitled to review those audio-video recordings.

By law No. 853-VDQ On Amendments to the Code of Civil Procedure, dated 31 October 2017, only advocates admitted to the Azerbaijani Bar Association can represent clients in courts. Before this amendment, even non-lawyers could have acted on behalf of their clients in courts. As an exception, companies may be represented by their authorized employees as well. Such employees are not required to be lawyers. It is expected that this amendment will improve the quality of attorney services in Azerbaijan.

25. Climate Change

- What is the legal framework for climate change in Azerbaijan?

The Republic of Azerbaijan is a signatory to the United Nations Framework Convention on Climate Change, which entered into legal force for Azerbaijan on 14 August 1995 (the "Convention"). Similarly, the Kyoto Protocol to the Convention (the "Kyoto Protocol"), effective from 16 February 2005, was ratified by the Republic of Azerbaijan on 18 July 2000, as was the Doha Amendment establishing the second commitment period of the Kyoto Protocol on 7 July 2015 (this amendment will enter into force upon its ratification by at least three quarters of the parties to the Kyoto Protocol).

The Republic of Azerbaijan is also a party to the Vienna Convention for the Protection of the Ozone Layer, dated 22 March 1985 (the "Vienna Convention"). On 12 June 1996, the Republic of Azerbaijan ratified the Montreal Protocol on Substances that Deplete the Ozone Layer, which aims to eliminate the production of certain substances believed to be responsible for ozone depletion. Furthermore, Azerbaijan has acceded to some of the subsequent amendments made to the Montreal protocol.

In 1997, the State Commission on Climate Change, composed of representatives of all relevant ministries and institutions, was established. Azerbaijan has adopted numerous legal acts and state programs regarding the Vienna Convention and other related international documents.

The country's main environmental problems are wastewater pollution, including trans-boundary pollution; emission of harmful substances and greenhouse gases from industrial plants and vehicles; improper disposal of solid municipal and industrial waste, including hazardous waste; depletion of biodiversity; and decline in forest resources and fauna.

The Ministry of Ecology and Natural Resources of the Republic of Azerbaijan (MENR) has established relations with international organizations and donor countries in the interest of tackling environmental changes. Partners include UNDP, the UN Environmental Programme, the UN Industrial Development Organization, NATO, the Global Environmental Facility, OECD, the World Bank, the Asian Development Bank, World Wildlife Fund and other agencies. Bilateral cooperation has also been established with several developed countries.

Pursuant to Presidential Decree No. 727, dated 1 April 2005, the Climate Change and Ozone Center of the MENR was appointed as the Designated National Authority for the purposes of the Kyoto Protocol.

- How is gas emission regulated?

In recent years, environmental protection and natural resource issues have become widely discussed topics in Azerbaijan.

According to Azerbaijan's Third National Communication to the United Nations Framework Convention on Climate Change, the main sources of carbon dioxide (CO2) emissions in the Republic of Azerbaijan are the energy and industrial sectors. While in the energy sector CO2 emissions come from the burning of fuel (production of energy, oil and gas extraction, transport, and human settlements, etc.), the largest sources of CO2 emissions in the industrial sector have been mineral materials' production and metallurgy.

Methane is emitted by most, if not all, sectors of the Azerbaijani economy.

Nitrous oxide emissions in Azerbaijan have declined significantly since 1990, when levels were measured at 992 GtCO2; by 2005, emissions had decreased by 64%.

Emissions of the halogen substances perfluorocarbon, hydrofluorocarbon and sulfur hexafluoride are not found at significant levels in Azerbaijan.

The Republic of Azerbaijan is a non-Annex I member of the Convention, and therefore does not have any binding obligations to reduce emissions of greenhouse gases (GHG). No concrete policies or laws on carbon market issues have been established to date for implementing the Kyoto Protocol. However, Law No. 109-IIQ of the Republic of Azerbaijan On Protection of Atmospheric Air, dated 27 March 2001, requires a special permit/license from the MENR for the emission of hazardous substances into the atmosphere. The law defines "harmful substances" as any substances or their mixtures that are released into the atmosphere and that, at a certain density, affect human health and the environment. The rules On Issuance of Special Permits for Emission of Harmful Substances into the Atmosphere approved by Resolution No. 112 of the Cabinet of Ministers on 13 July 2002 state that a special permit is a document that allows natural and legal persons to release harmful substances into the air. The special permit is issued for a period of three years. The emissions permit is the only emissions allowance issued in Azerbaijan.

To achieve the purposes of the Kyoto Protocol, the Republic of Azerbaijan has entered into memorandums of understanding with the Federal Republic of Germany and the Kingdom of Denmark on expanding vegetative cover and on capacity building toward a reduction in GHG emissions.

Both SOCAR, the national oil company, and Azerenerji, the state monopolist for power generation and electricity transmission, are implementing GHG emission projects. This has mostly eliminated the need for central GHG emission plans and targets, since the World Bank reports that almost all GHG emissions in Azerbaijan are generated in the energy sector.

- What are the perspectives of the Paris Agreement for Azerbaijan?

Azerbaijan was one of the 195 nations to negotiate and adopt the Paris Agreement governing carbon dioxide reduction measures from 2020

on 12 December 2015 (the agreement entered into force on 4 November 2016).

In its Intended Nationally Determined Contribution (INDC), which all countries were asked to publish in the lead up to the Paris conference, Azerbaijan stated that it is targeting a 35% reduction in the level of greenhouse gas emissions compared to 1990/base year as its contribution to the global climate change efforts.

According to the INDC, Azerbaijani national greenhouse gas emissions account for 0.1% of global emissions, while per capita gas emissions for 2010 equal 5.4 tons of CO2 equivalent.

Azerbaijan stressed that its INDC is a highly ambitious commitment. The increase of the population of Azerbaijan by approximately 1.1% or 100,000 people per year projected in the official national statistics will increase the demand for energy and other national resources, and this represents one of the main challenges for the reduction of GHG emissions.

In addition, constraints on the implementation of the INDC and specific risks for the country are as follows:

- the remaining occupation of 20% of the territory of Azerbaijan and consequent problems for 1 million refugees and IDPs, massive plunder of natural resources and other wealth, as well as extermination of flora and fauna in the occupied territories;
- declining prices of oil in the global markets.

Azerbaijan's INDC covers energy, agriculture, waste, land use, land-use change and the forestry sectors as well as gases such as CO_2, CH_4, N_2O, HFC and CF_4.

26. Insurance

- What type of legal framework is applicable to the insurance market in Azerbaijan?

The legal basis for the Azerbaijani insurance system was first established by the law On Insurance[38] dated 5 January 1993, subsequently replaced by another law of the same name[39] dated 25 June 1999. The introduction of a new chapter dedicated to insurance, Chapter 50, into the Civil Code[40], and the adoption of a new law, On Insurance Activity, effective 16 March 2008[41] (the Insurance Law) superseded most of the previous insurance laws. Currently, insurance in Azerbaijan (except for social insurance) is regulated primarily by these legal acts. In addition to this core legislation, various insurance-related issues, including compulsory insurance, are regulated by separate laws and regulations.

The Civil Code sets forth concepts and mandatory terms for insurance contracts, rights and obligations of the parties, rules for changing the parties and beneficiaries in insurance contracts, rules for termination, and other fundamental insurance-related regulations. The Insurance Law provides a general description of the organization of the Azerbaijani insurance market, establishes classes of insurance, and stipulates requirements for the establishment, licensing, operation and liquidation of insurance businesses, including regulation of other participants in the market.

[38] Law No. 436 of the Republic of Azerbaijan On Insurance, dated 5 January 1993.
[39] Law No. 696-IQ of the Republic of Azerbaijan On Insurance, dated 25 June 1999.
[40] Approved by Law No. 520-IIIQ of the Republic of Azerbaijan, dated 25 December 2007, and effective 14 March 2008.
[41] Law No. 519-IIIQ of the Republic of Azerbaijan On Insurance Activity, dated 25 December 2007.

- What are key market players in the insurance market?

The Azerbaijani insurance system consists of:

  - the Chamber of Control over the Financial Markets; and
  - professional participants, including insurers, reinsurers and insurance intermediaries, actuaries, independent auditors and experts, and insurance auxiliaries;
  - insured persons and beneficiaries.

The Chamber of Control over the Financial Markets is Azerbaijan's insurance regulatory authority, with supervisory control over the insurance sector.

Currently, there are 21 insurance companies and one reinsurance company registered in Azerbaijan, of which 18 insurers engage in non-life (general) insurance activity and the other three provide life insurance.

Only an Azerbaijani legal entity in the form of an open joint stock company may become an insurer in Azerbaijan.

Any person (excluding stateless persons, political parties, non-governmental bodies, international organizations other than international financial institutions in which Azerbaijan participates) may be a founder or shareholder of an Azerbaijani insurer.

In the Azerbaijani insurance system, there are two types of insurance intermediaries: (i) insurance brokers, and (ii) insurance agents. Insurance intermediaries can be either individuals or legal entities. Insurance brokers are fully independent and have no ties to any insurer/reinsurer.

To be an insurance broker or insurance agent, individuals and legal entities must first obtain a license and be entered into the Insurance Register.

- What types of licenses are required?

Engaging in insurance activities in Azerbaijan requires a license. This license specifies the types of insurance that the insurer is authorized to offer. There is also a specific license for reinsurance. Prior to the amendments made to the Insurance Law in 2013, an insurance license gave the license holder the right to provide reinsurance services. Now, an insurance license holder must obtain a separate license to provide reinsurance services.

Under the Insurance Law, licenses for insurance and reinsurance activities are issued for five years for newly established open joint stock companies and an indefinite period thereafter.

Along with the mentioned licenses, insurers must also apply to the Chamber of Control over the Financial Markets for relevant permits for carrying out certain insurance types of voluntary or compulsory insurance.

The state fee for obtaining insurance and reinsurance licenses is AZN 11,000 (USD 6,470).

- How are the insurance market and products regulated?

Only a duly licensed Azerbaijani insurer may insure property interests related to property located or present in the Republic of Azerbaijan.

Insurance in Azerbaijan may be voluntary or compulsory. While the rules, terms and types of compulsory insurance are established by law, insurers authorized to offer voluntary insurance may establish the rules and types of voluntary insurance themselves.

There are a number of laws governing specific types of compulsory insurance. In particular, the Azerbaijani Law On Compulsory Insurance, dated 24 June 2011 (the "Compulsory Insurance Law"), provides for mandatory real estate insurance, as well as third-party liability insurance for real estate (belonging to legal entities and/or physical persons engaged in entrepreneurship without creating a legal

entity) and automobiles. Pursuant to the Compulsory Insurance Law, an insurer may not refuse to sign a compulsory insurance contract with a person who applies to the insurer for insurance of his/her relevant risks and has an insurance interest.

Recently, amendments were made to the Compulsory Insurance Law, whereby a green card system was established. A green card is an international insurance contract confirming the existence of compulsory insurance of civil liability in connection with the use of a vehicle related to any country that is a member of the Board of Bureaus (management organization of the Green Card System) and this contract is executed in the form approved by the board, European Economic Commission of the UN and international association of national bureaus of vehicle insurers. Under the system, an automobile registered in the Republic of Azerbaijan must obtain an Azerbaijani green card prior to leaving Azerbaijan for a country where the green card system is used. The changes related to the green card system are effective from 1 January 2016.

- What are the different types of insurance in Azerbaijan?

Azerbaijani insurers may provide either life insurance or non-life insurance (general insurance). Insurance providers offering life insurance must have the word “life” in their corporate name.

Life insurance has the following types:

- death insurance;
- straight life insurance;
- annuity insurance;
- disability insurance; and
- terminal illness insurance.

Non-life insurance includes:

- personal insurance: accident insurance, medical insurance, travel insurance and other insurance;
- property insurance: property interests relating to the stability, use or disposal of property (including title insurance);
- civil liability insurance;
- credit insurance;
- compound financial risks insurance; and
- legal expenses insurance.

To arrange for reinsurance, insurers can make reinsurance pooling arrangements on the basis of joint operating agreements.

Apart from its main activity, an insurer may engage in insurance-related activities not requiring a license, as permitted by the insurance law.

- Are there any restrictions on foreign investments?

Foreign insurers are not allowed to offer insurance directly in the Azerbaijani market. New amendments to the Insurance Law create an exception by enabling risks related to international sea and air transport, as well as space flights, transport and installations (including satellites) for commercial purposes to be insured with foreign insurers. Property interests connected with an insured item located or present in Azerbaijan, however, may be reinsured by foreign insurers directly or through local or foreign brokers. Both foreign insurers and brokers involved in such transactions must comply with the requirements of Azerbaijani insurance law and be registered in the Insurance Register.

Foreign insurers may operate representative offices, joint ventures and wholly owned subsidiaries in Azerbaijan; however, the establishment of branch offices of foreign insurers is prohibited.

Azerbaijani law imposes a quota on foreign capital in the aggregate capital of insurers operating in Azerbaijan. Currently, this quota is set at 50% for legal entities and at 30% for individuals provided that the share of one foreign individual in an insurer's charter capital does not exceed 10%. Nevertheless, recent amendments allow 100% foreign capital ownership in Azerbaijani insurance companies for international financial institutions in which the Republic of Azerbaijan participates, foreign insurers, as well as foreign institutional investors (banks and credit organizations, pension funds, investment funds).

Foreign Direct Shareholding

Direct or indirect possession of significant control (20% or more shares) or a majority shareholding (50% or more shares) in an Azerbaijani insurer requires the prior written approval of the regulatory authority. This requirement applies to both resident and non-resident shareholders of the Azerbaijani insurer.

Under the Tax Code, foreign legal entities without a permanent establishment in Azerbaijan are subject to 4% withholding tax on income derived from insurance premiums.

Representative Offices

A foreign insurer may open a representative office in Azerbaijan but not a branch. Since a representative office[42] is not considered a separate legal entity under Azerbaijani law, the representative office only represents and protects the interests of the foreign insurer, without acting as an insurer. Therefore, foreign legal entities' representative offices are not subject to licensing in Azerbaijan. Notwithstanding this, the representative offices of foreign insurers

[42] See Chapter 3 (Establishing a Legal Presence) for the status of foreign legal entities' representative offices in Azerbaijan.

must be registered in the Insurance Register, just as other professional participants of the Azerbaijani insurance market.

Domestic standards

- Are there capitalization and surplus requirements?

The minimum charter capital for Azerbaijani insurers is currently AZN 5 million (USD 2,941,003) for non-life insurance and AZN 10 million (USD 5,882,006) for life insurance. Similarly, the minimum charter capital for Azerbaijani reinsurers is AZN 20 million (USD 11,764, 013).

- What requirements are applicable to corporate structure and executives of insurance companies?

The general meeting of shareholders, board of directors, management board and audit commission are the governing bodies of an Azerbaijani insurer.

The members of the board of directors, management board and audit commission, head of the internal audit service, chief accountant and responsible actuary are deemed an insurer's executives. The Insurance Law establishes the minimum qualifications for insurance executives. As well as other requirements, all executives must have a higher education qualification, professional experience (except for actuaries) in certain sectors as provided for by the Insurance Law, have no criminal record, and undergo attestation at the relevant regulatory authority (except for members of the board of directors).

The board of directors, management board and audit commission each consist of an odd number of members (not less than three), appointed for a term not exceeding three years. At least one of the members of the board of directors and the audit commission must be independent.

27. Pharmaceuticals and Healthcare

- What is the general legal framework governing healthcare in Azerbaijan?

The Law on Protection of Health of the Population ("Health Protection Law") is the basic law regulating healthcare issues in the Republic of Azerbaijan.[43] Moreover, the Law on Private Medical Activity[44] sets out the principles under which the private medical institutions and individuals engaged in private medical practice can implement medical activities.

Being one of the most important parts of healthcare, the medicine regulation is under the control of the Law on Medicinal Preparations[45] ("Medicines Law"). The law was seriously amended in the years 2016-17, especially with regard to the advertisement of medicines. Additionally, prior to these amendments, the Rules on Regulation of prices of state-registered medicines and control of those prices were passed. Also, the Law on Pharmaceutical Activity[46] prescribes an economic and organizational basis for the preparation, testing, production, storage, import, export and sale of medicines.

- What are the key regulatory bodies in this area?

The Ministry of Health of the Republic of Azerbaijan ("MOH") has the ultimate responsibility for the management of the health system. The private sector is licensed by the MOH but is otherwise completely independent. The private sector has been flourishing in recent years. Innovation and Supply Center Control monitors the quality, efficiency

[43] Law No. 360-IQ of the Republic of Azerbaijan, on Protection of Health of the Population, dated 26 June 1997.
[44] Law No. 789-IQ of the Republic of Azerbaijan, on Private Medical Activity, dated 30 December 1999.
[45] Law No. 208-IIIQ of the Republic of Azerbaijan, on Medicinal Preparations, dated 22 December 2006.
[46] Law No. 189-IQ of the Republic of Azerbaijan, on Pharmaceutical Activity, dated 5 November 1996.

and safety of the medicines. In 2007, the MOH initiated the establishment of the Analytical Expertise Center ("the Expertise Center") to strengthen state control over pharmaceutical market participants.

The MOH is responsible for the development of state policy in healthcare, the circulation of medicines, and sanitary and epidemiological safety in the Republic. In this regard, the MOH's obligations are:

- provision of normative regulation relating to its competence by legislation;
- ensuring implementation of state programs and development concepts within their competence;
- improving the forms of medical care, creating a medical statistics, information and analytical bank to explore the demographic process and health status of the population;
- state control over the healthcare field;
- supervision of medical education, scientific research in the field of medicine, control over the activity of non-governmental medical institutions and state sanitary-epidemiological control;
- provision of sanitary protection from the import and distribution of quarantined infections in the country, and from the import of dangerous food products; and
- issuance of special permits (licenses) for the relevant types of activity in the manner provided for by the legislation.

In addition, the MOH has the right:

- to offer suggestions on the main directions of state policy in the healthcare field;

- to take measures to study the health status of the population, prevent diseases, reduce disability and mortality;
- to develop measures for protection of motherhood and childhood, reproductive health and family planning, physical and hygiene education, arrangement of maternity and child care services;
- to demand production, sale and consumption of baby food products in accordance with legislation;
- to participate in the preparation of health resort and recreation areas, and to develop more effective methods for the full use of resorts;
- to provide advanced practice, application of medical science achievements, and research in medicine and pharmacy;
- to identify the needs of medical and pharmaceutical professionals, and to train these specialists in educational institutions, as well as to organize scientific and pedagogical cadres in the field of medicine;
- to provide healthcare facilities with qualified medical personnel, and to implement measures to improve the professionalism of physicians, pharmacists and other health professionals;
- to ensure that the quality of medical services provided by enterprises and organizations engaged in medical activities within their competence and the level of professional training of medical personnel is high;
- to cooperate with the relevant international organizations, including the World Health Organization, relevant state

bodies (agencies) of foreign countries, non-governmental organizations on the main focus of healthcare; and

- to issue special bulletins and other publications.

- How is registration of medicinal preparations and medical devices organized?

Registration of medicinal preparations is the process performed in accordance with the Medicines Law as well as with the Rules of State Registration of Medicines and maintaining of the register ("Medicines Registration Rules"). State registration of medicinal products provides a system for production, import, examination, testing and use of medicines in the Republic of Azerbaijan. Pursuant to the Medicines Registration Rules, the following medicinal preparations should be registered:

- original medicines;
- analogues of drugs (generics);
- new combinations of state-registered medicines;
- registration-expired medicines; and
- pharmaceuticals (medicinal substances) used as an ingredient in the production of medicines.

The applicant, for registration purposes, sends a letter to the Ministry of Health. Additionally, there should be a list of documents submitted together with the letter:

- application for state registration of the medicinal product in the Republic of Azerbaijan;
- application for state registration of medicinal substances in the Republic of Azerbaijan;

- documents submitted for state registration in the Republic of Azerbaijan of the medicinal product produced in the foreign state; and
- a collection of documents submitted for state registration of the medicinal product produced in the Republic of Azerbaijan.

If the application is for registration-expired medicines, the applicant must apply to the MOH with a letter of state registration for the state registration of the medicinal product up to 120 calendar days before the expiration of the previous state registration.

Any applicant should submit to the MOH a copy of the medicinal product submitted for state registration and the medicinal substance (substance) used in the manufacture of the same medicinal product, along with the application and these documents. An example of the drug substance should be presented in sufficient quantities for a three-factor analysis consisting of five boxes of the form intended for sale and the sample of the substance used in the manufacture of the same medicinal product. Drugs and expensive medicines (medicines substance), which are used for the production of medicines, which cost more than AZN 30 (USD 17) per sample, are presented in the amount required for single-time laboratory analysis.

The MOH shall accept one of the following decisions within a period of 15 calendar days from the date of the report being compiled on the basis of specialized expertise and a report drawn up by the Pharmacopoeia Expert Council under the MOH:

- decision on state registration of the medicinal product;
- refusal of the state registration of the medicinal product.

If the decision is positive, the MOH will provide the applicant with a registration certificate within 15 calendar days. If the application is submitted for several medicines, each of them will have a separate registration certificate.

The legislation does not provide much detail about the regulation of registration of medical devices. However, they must be registered by the Expertise Center.

- How is the manufacture of medicines and medical devices regulated?

The manufacture of medicines is listed among the activities which need licensing pursuant to Law on Licenses and Permits of the Republic of Azerbaijan, dated 15 March. The law is silent on the validation term of such a license. The Licensing and Service Provider Department under the Ministry of Economy of the Republic of Azerbaijan issues such licenses. In addition, the "ASAN service," the Analytical Expertise Center and the MOH are involved in the process of licensing.

After the application to obtain the license, the answer from the relevant executive body is given within 10 business days. The state fee is in the amount of AZN 2,250, exempt from a service charge which is not applicable in this case. Moreover, it should be noted that when licensed entrepreneurship activities are carried out only in the regions of the Republic of Azerbaijan, according to Article 23.2 of the Law on State Duty, only 50% of the state fee should be paid.

Neither non-registered medicines nor non-registered medical devices can be manufactured in Azerbaijan.

- How is the importation of medicines and medical devices regulated?

Only medicines registered in the database of medicines under the MOH is allowed for import. The importation of medicines is regulated by the MOH. The applicant fills in the form and presents the documents as an attachment to the application. The MOH inspects the documents and decides on permission to import medicines. The permission is considered within 15-30 days.

Instructions for the use of medicines imported into the Republic of Azerbaijan in accordance with the Medicines Law shall contain the name of the manufacturer of the medicinal product in the Azerbaijani language, he name and legal address of the manufacturer of the medicinal product, the date of manufacture and its serial number, dose, form, number of doses included in the packaging, useful life, storage and exposure conditions, safety precautions when using the medicinal product, information about ingredients in the medicinal product, application area, contraindications, additional effects and other medicines.

In case of any noncompliance with state standards, the importation of medicines will be canceled. For example, in 2016, about 4,000 medicines were not in line with standards.

In addition, importation of medicines for humanitarian purposes is allowed according to the opinion of the Ministry of Health issued at the result of expertise on the basis of submitted documents.

The importation of medicines, which are not registered in Azerbaijan, for humanitarian purposes during epidemics, natural disasters or other emergencies is allowed by the Cabinet of Ministers only if such medicines have documented registration in the exporting country and a quality guarantee. The term of exploitation of medicines imported into Azerbaijan for humanitarian purposes cannot be more than five years.

For the purposes of importation of medical devices, the applicant has to submit a letter to the Expertise Center. Among the required documents should be (i) letter of Inquiry (letter or telephone number of company or responsible person); (ii) copy of invoices; (iii) copy of purchase order (contractual agreement expiration date must be specified); (iv) copy of origin certificate - Trade and Industry Chamber of the country of origin (including other responsible certificates issued by organizations); (v) quality certificate. A certificate drawn up by the manufacturer or seller is not accepted.

- How is the wholesale of medicines and medical devices regulated?

Pursuant to the Law on Licenses and Permits of the Republic of Azerbaijan, the pharmaceutical activity requires the license. This license is valid for an indefinite term.

Pharmaceutical activity includes activities related to the preparation, production, wholesale and retail of medicines. As per the Medicines Law, wholesale pharmaceutical enterprises should be legal entities carrying out the wholesale of medicines in accordance with the requirements of the Law. Appropriate manufacturing facilities and pharmacy stores carry wholesale medicines.

More detailed regulation of wholesale medicines is listed in Requirements on Wholesale of Medicines ("Requirements") approved by the Decree of the Ministry of Health of the Republic of Azerbaijan No. 153 dated 2 October 2006. Wholesale stores sell medicines to companies and pharmaceutical organizations for production purposes, to scientific-research institutions for scientific research, and to legal and physical persons engaged in medical activities.

A pharmaceutical company engaged in wholesale of medicines should have a label indicating the company name, address and business description. The warehouse part of the pharmacy stores must be specially equipped with isolated packs allowing the physical and chemical and other features of the medicines as well as a recovery regime to be maintained. The Requirements specify the storage location and contain a very full list of conditions of such storage. For instance, the storage must have ventilation and a special pharmaceutical refrigerator and freezer.

Additionally, in order to duly organize the market demand and comply with the Requirements, it is recommended to involve specialists with a pharmaceutical education. Pharmacists working for five years without a break in this field after they have completed training in the relevant educational institutions may be engaged in pharmaceutical activities.

The violation of these requirements shall result in liability in accordance with the legislation of the Republic of Azerbaijan.

- How is the retail of medicinal preparations and medical devices regulated?

According to the Law on Pharmaceutical Activity in pharmacies, the pharmaceuticals equipment is manufactured by the appropriate manufacturing facilities and pharmacy stores, and retail sale is conducted by chemists shop. Moreover, Requirements on Release of Medicines from chemists shops ("Medicines Release Requirements") approved by the Decree of the Ministry of Health of the Republic of Azerbaijan No. 57 dated 21 October 2015 contain more specific regulation of such retail sale. Pursuant to the Medicines Release Requirements, the release of medicines without a prescription is unlawful. On the basis of the prescription, only state-registered medicines are issued in the Republic of Azerbaijan. Prescriptions that do not comply with the requirements of these rules are considered invalid and do not allow the release of medicines from pharmacies.

Medicines are only released by pharmacies. Additionally, the Ministry of Health of the Republic of Azerbaijan or its local administrations may release free medicines.

The duration of the prescription of medicines is 90 days, and for free medicinal products, it is 30 days. The main part of a free prescription in pharmacies should be kept for three years.

- How does state regulation of prices of medicinal preparations and medical devices operate?

Pricing procedure is determined under Resolution of the Cabinet of Ministers of the Republic of Azerbaijan No. 209 On Procedure for Regulation of Prices of State-Registered Medicines and Implementation of Monitoring of those Prices, dated 3 June 2015 and Instructions on the Methods of Calculation of Medicines Prices, approved by Decision No. 4 of the Tariff (Price) Council of the

Republic of Azerbaijan (the "Council"), dated 21 July 2015 (together "Pricing Rules"). According to the Pricing Rules, wholesale and retail prices of all state-registered medicines with the MOH should be determined by the Council. Regulation of prices for medicines is implemented based on the reference prices. In order to determine the reference prices, the Council should, each year, choose at least five reference countries from among different countries and approve them. Any change to the list of reference countries should be made with two months prior notification. Current reference countries include Turkey, France, Italy, Spain, Portugal, Greece, Poland, Hungary, Bulgaria and Slovenia. Reference countries of the following year are announced by the Council until 31 October of the current year. In the event that new countries are not announced before the deadline, reference countries of the current year should remain unchanged for the next year as well.

For medicines that are of significant importance in terms of the health of the population and not produced domestically or have inefficient import conditions, the conditional selling price to domestic wholesale pharmaceutical companies exceeding the price calculated in accordance with the requirements of the Pricing Rules may be fixed by the Council obtaining a relevant opinion from the MOH concerning the mentioned medicines.

In the event that the original medicine is registered in Azerbaijan for the very first time, financial documents approved by an auditor, pharmacoeconomics information based on an expert opinion, as well as cost of treatment methods used for diseases for which such medicine is prescribed should be taken into account in price regulation. In the event that no application was filed by producers during the term defined by the Council for price regulation, price regulation shall be effected by conducting examination based on information on reference countries, as well as the countries with open databases.

- How is promotion of medicinal preparations and medical devices regulated?

Medicines Law and Law on Advertisement of the Republic of Azerbaijan, dated 15 May 2015 defines the limits of advertisement of medicines.

In the Republic of Azerbaijan, only medicines that are issued without prescription, medical technology, methods of treatment, prevention, diagnosis and rehabilitation can be advertised only if they are allowed for use under the MOH's decision.

With regard to advertisement of other drugs, it is prohibited to:

1. refer to minors;
2. refer to specific circumstances of improvement and rehabilitation of diseases;
3. express gratitude of natural persons who used the advertised medicines;
4. imply a necessity for a healthy person to use the advertised medicines;
5. imply that there is no need to refer to doctors;
6. guarantee a positive reaction, safety, efficacy of the medicine and the absence of adverse reactions;
7. present medicinal products as biologically active substances and food additions or any product other than medicine; and
8. disseminate information which guarantees that the advertised product comes from natural sources, and is safe and effective.

If the use of medicines issued without prescription and the use of medical equipment is accompanied by side effects, the advertisement should contain information on this and note the importance of consulting with a doctor or specialist.

Moreover, advertising medicinal products and medical equipment requiring special training and/or used in the transplantation of human organs and/or tissues can only be distributed in print media specializing in medicine and events held for medical workers and pharmacists.

Baker McKenzie helps clients overcome the challenges of competing in the global economy.

We solve complex legal problems across borders and practice areas. Our unique culture, developed over 65 years, enables our 13,000 people to understand local markets and navigate multiple jurisdictions, working together as trusted colleagues and friends to instil confidence in our clients.

www.bakermckenzie.com