

## Russia proposes unified approach to Special Economic Zones

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The creation of preferential zones to attract and facilitate investment has been a key element of the Russian Government's policy for a number of years. Investors have access to different types of zones offering special advantageous conditions for their residents, including special economic zones, priority socio-economic development zones, the Vladivostok free port, special administrative districts, industrial parks and technoparks.

The operation of these preferential zones has had varying results from region to region and in Russia as a whole, and as a result, there is now a perceived need to systematize and, to a certain extent, codify the existing layer of regulation.

Accordingly, the Ministry of Economic Development published, in June 2019, a draft federal law "On Preferential Regimes in the Russian Federation and the Introduction of Amendments to Certain Legislative Acts of the Russian Federation."

That bill envisages the creation of a new, unified legal regime under the blanket term "special economic zone" (SEZ), which would be defined as a part of the territory of a regional entity of the Russian Federation in which investors are granted regional state support measures (*a preference portfolio*) and in which the free customs zone customs procedure may be applied.

The bill proposes a ban on the creation of new preferential areas from 1 January 2020, including SEZs, priority socio-economic development zones and innovation research centers. It is envisaged that existing zones would retain their status until it expires, while the provisions of the new law would not apply to technoparks, clusters and industrial parks regulated by the Federal Law "On Industrial Policy."

### **Procedure for the creation of an SEZ**

The decision to create an SEZ would be adopted by the Government based on an application submitted by the relevant region. An SEZ would be established for 49 years.

The territory of an SEZ may be divided into segments, each covered by an agreement between federal and regional authorities on the creation and administration of that segment of the SEZ.

The bill allows for two approaches to the administration of an SEZ: direct administration by a regional authorized body or the use of a management company.

The bill specifies cases in which the Government may make a decision to terminate an SEZ early (for example, if the SEZ operates inefficiently for three years in a row). In this case, any investment agreements between the region and investors would also cease to have force. However, the bill does not include any compensation mechanism to address losses caused by the termination of an investment agreement as a result of the termination of an SEZ.

### **Procedure for obtaining SEZ resident status and conclusion of an investment agreement**

To obtain SEZ resident status, a resident must meet the following requirements: it must not be in the process of re-organization, liquidation or bankruptcy; it must be registered in the territory of the SEZ; it must not have branches, representative offices and/or geographically separate subdivisions outside the SEZ. The region concerned may establish additional requirements.

According to the bill, to obtain resident status an investor must prepare and submit an application and relevant attachments, including an investment project certificate and documents confirming sources of financing (the bill does not establish a list of such documents).

Within 10 working days of an application being submitted, the executive authority of the region in question must send the applicant an investment agreement ready for signing or adopt a decision to reject the application. The bill sets forth

grounds on which an application may be rejected, including the inability to provide the applicant with the infrastructure required for the investment project and non-conformity of the applicant or the investment project to the established requirements.

An investment agreement must set out the rights and obligations of the resident and of the region concerned. In particular, the resident is obliged to carry on the specified activity and make investments in the stipulated amounts and timeframe (the bill does not set minimum or maximum amounts of investment), while the region undertakes to lease a plot of land to the resident and do other acts specified in the bill or the agreement.

In addition, the investment agreement must indicate the nature, timing and amount of state support measures.

### **List of state support measures**

The bill introduces the term "preference portfolio of a constituent region of Russia," which represents the overall package of state support measures granted to SEZ residents. The nature, timing and extent of state support measures for each region of Russia are to be established on the basis of the investment attractiveness of the region concerned as measured by a composite investment index.

Under the bill, state support measures available in an SEZ may include:

- ▶ Tax relief
- ▶ Budget investments and subsidies
- ▶ State guarantees
- ▶ Special regulations

The preference portfolio may also include benefits associated with infrastructure construction, provision of technical specifications and connection of capital construction projects and power facilities to utility networks. The aggregate amount of state support measures may not exceed the total investment amount stated in the investment agreement, and the total period for which state support measures are granted may not be more than 10 years from the date of conclusion of the investment agreement.

SEZ residents also qualify for other support measures which will be applicable regardless of whether they are included in the preference package, including in relation to the conduct of state environmental appraisals and participation in state procurements. Residents will be guaranteed the stability of their overall tax burden while an investment agreement is in force.

In addition, the new framework provides for certain types of preparatory work for an investment agreement to be carried out before a permit for infrastructure construction is received. A list of those types of work is to be established by the authorized body.

On the basis of a written application from a resident, a decision may be made to establish a customs control zone within an SEZ for the purpose of the application of the free customs zone customs procedure.

The new regulatory framework provides for existing forms of state support to be drawn together in a “single window” format and is bound to be welcomed both by regional authorities and by investors, primarily on account of the composite approach and the fact that it allows investors to choose a preference package that suits their needs.

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