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SERBIA: NEW LAW ON INVESTMENT

On 4 November 2015, the new Serbian Law on Investment came into force, thereby replacing the long-standing Law on Foreign Investment. This consequently supersedes sections of the current Law on Foreign Trade and the Law on Regional Development.

Most significantly, this new investment law applies both to foreign and domestic investors. Investments include: certain rights acquired by PPP agreement, rights to perform business activities that are granted by state authorities, holding shares in Serbian companies, establishing a branch in Serbia by a foreign investor, as well as ownership and other rights to movable or real property located in Serbia. The new law differentiates between investments of special importance and those of local importance, with specific criteria given for each.

Investors stand to benefit from investment incentives, such as state aid, tax incentives and tax relief, customs incentives, as well as incentives covering compulsory social security obligations. Additionally, equipment that is contributed by a foreign investor is generally duty free, subject to a few exceptions.

With respect to investment incentives, the new institutional framework has formally recognized the Council for Economic Development (*Savet za ekonomski razvoj*) and the Serbian Agency for Development (*Razvojna agencije Srbije*) as the key institutions for investment incentives. SIEPA, the standing competent authority in these matters, as well as the National Regional Development Agency must cease operations within 120 days of the date on which new law comes into effect.

In an attempt to lessen administrative burdens, local or regional governments can establish an investment program, laying out the timeline and steps for submission of relevant documents by an investor and, in return, the issuing of licenses, consents, approvals by local authorities. Further, the local government may form project teams to provide expert support to the investor.

Notably, in order to ensure investment protection in cases of expropriation, investors will be entitled to compensation not only for seized real property but also for any devaluation of business caused by such expropriation.

With respect to dispute resolution mechanisms, the new law simply allows investment disputes to be settled before courts and arbitral tribunals, whereas the previous law reserved exclusive jurisdiction for the Serbian courts (alternatively allowing for arbitration).

It is worth noting that investment projects in which incentives were granted for ongoing direct investment, in accordance with state aid rules or direct investment regulations, will continue to be enacted in adherence to the regulations by which they were granted.

Finally, it is expected that a set of new bylaws and other more detailed sub-regulations to this law will be enacted soon.

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