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Legal News

October 2016

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Amendments to the Law on Securing Charges

On October 20, 2016 the Parliament approved the law no. 101/2016 “On some amendments and additions to the law no. 8537, dated 18.10.1999 “On securing charges” as amended. The law has been published with the Official Gazette no. 207, dated 04.11.2016 and will enter into force 15 days from the publication date.

The amendments approved by the Parliament has the merits to restore the previous setup of the Law on Securing Charges.

Entered into force on 2000, the Law on Securing Charges has the merits for introducing a swift system for the secured transactions. The law provided for types of collateral that included *inter alia* also intangible assets (i.e. shares in limited liability companies and/or nominal shares in joint-stock companies, receivables, contractual rights, patents, trademarks and service marks, copyrights, accounts, etc.). For this purpose, the legislator established a dedicated register, initially administered by the Ministry of Finance and starting from 2009 granted into concession for administration by a private entity.

On 2013, upon law 132/2013, the Law on Securing Charges experienced some amendments that stripped



away the same from paramount concepts such as the 'intangible asset', 'instrument', 'bond' and 'accounts'. The business service providers will be equipped with a certificate of employment registration valid for a period of stay up to 90 days within one year.

With the approved amendments to the Law on Securing Charges, the legislator reinstates the abrogated terms and return the Law on Securing Charges at the state before the amendments of the 2013.

According the provisions of the law 101/2016, the intangible asset is defined as any kind of asset being not a thing, instrument or security (i.e. this is a new entry in the definition) and consisting in intellectual property, accounts, etc.

Additional amendments are *inter alia* the reformulation of the securing charge definition, which includes the intangible asset and by this way is defined as a real right on intangible asset or tangible movable asset, whether present or future that secures one or more obligations that arise before or after the securing agreement as well as the reintroducing of the term sale of accounts in the definition "transferee and transferor".

In conclusion, it has to be said that the approved amendments to Law on Securing Charges are welcomed, as the re-entry into force of abrogated concepts will allow the parties in the financial transaction to choose the easier way for securing the repayment of the obligations and the eventual enforcement process.

Deloitte Contacts

Olindo Shehu, CPA

Partner | Tax & Legal Services

Deloitte Albania sh.p.k

Rr. "Elbasanit", Pallati prane Fakultetit Gjeologji Miniera

Tirana | Albania

Mob: +355 68 60 33 116

E-mail: oshehu@deloitteCE.com

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