

# Reform of the Regimes of the Government Incentives to Investment Projects

May 13, 2019

The Russian economy, in its current state, definitely needs new investment projects. With economic and macro-political instability, both foreign and Russian investors urgently require government support to implement investment projects.

The investment laws of the 1990s are now quite outdated<sup>1</sup>. The special investment contract (SPIC) regime also needs modernization.

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In this context, the government is carrying out a large-scale reform of investment regimes and investment environment stabilization tools available across various industries. This reform focuses on establishing the most attractive regimes for long-term investments in Russian economy by ensuring a stable tax and regulatory environment, offering tax and other benefits to investors and by introducing other incentives to engage and support Russian and foreign companies in implementing investment project.

Currently a number of the government investment support measures are available across various industries in Russia, including “**geographical**” regimes (such as, *special economic zones, priority social and economic development areas*, etc.), and “**contractual**” investment regimes (*SPICs, concession agreements, PPP agreements*, etc.). Government incentives to investors currently are not organized, and are contained in a number of legal acts.

The main areas of the reform:

- Adoption of the “**Investment Code**” (*law on protection and encouragement of capital investments and development of investing activity in the Russian Federation*) (APECI).
- “Restart” of **special investment contracts** (“SPIC 2.0”).

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<sup>1</sup> Law of the RSFSR of June 26, 1991, No. 1488-1 “On investment activity in the RSFSR”; Federal Law of February 25, 1999, No. 39-FZ “On investment activity in the Russian Federation pursued in the form of capital investments”; Federal Law of July 09, 1999, No. 160-FZ “On foreign investments in the Russian Federation”.

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International law firm Debevoise & Plimpton LLP offers a brief overview of the reform of the government incentives regimes as to investment projects.

## INVESTMENT CODE

APECI (or any similar mechanism) should provide for two stabilization investment regimes: universal and tailored. Under **the universal regime**, the state as a party to the agreement shall **guarantee** to the investor **a set of immutable investment terms**, common to all investors. In particular, investors are assumed to remain unaffected by amendments to laws on licensing, certification, and technical regulations. Under the **tailored investment regime**— the parties **to the agreement may determine the terms** to remain unchanged during the project life due to their significance for the project. For instance, such risks as change in tariffs and customs duties or in natural monopolies investment programs can be stabilized.

APECI is asserted as the most general support tool, designed for application across a wide range of the real-sector industries, including manufacturing, agriculture, mining, construction, tourism, health care, etc.

The **maximum life** of the APECI shall be from **6 to 18** years depending on the equity investment volume.

The law will also provide for the minimum equity investment limit for a project. For example, equity investments in manufacturing, agriculture, and some other areas will have to equal at least to RUB 1 bln with the total investment volume of at least RUB 5 bln.

Investors will generally be selected based on competitive bidding for the projects, initiated by the government. The selected investor may suggest another initiative, and in this case, will have only to confirm compliance with the specified requirements. In addition to fixed terms of income, business property, land, and transport taxation, APECI may offer the investors:

- advance payment and reimbursement of infrastructure expense;
- reimbursement of loan interest expense;
- capital funding;
- possible participation in project financing from VEB.RF (*“Project Finance Factory”*), as well as other support initiatives.

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## SPIC 2.0

On April 16, 2019, in view of SPIC reform, a package of bills was introduced to the State Duma of the Russian Federation with proposed amendments to the Federal Law on “Industrial policy in the Russian Federation”, the Budget Code of the Russian Federation, and the Tax Code of the Russian Federation<sup>2</sup>.

SPIC 2.0 is a more specialized stabilization regime than the APECI, as SPIC is intended **to support exclusively high-tech production**. So SPIC 2.0 will aim at development and / or deployment of advanced technologies to manufacture globally competitive industrial products, or products that are unparalleled within the Russian territory.

The law will define the **maximum SPIC 2.0 validity period** depending on the total project investment volume. The contract may supposedly be concluded for not more than 15 or 20 years depending on investment volume. The minimum investment volume shall not be specified, so SPIC 2.0 will be available for medium-sized businesses able to offer a relatively small investment volume. Investors shall be generally selected based on competitive bidding, excluding specified cases (for example, special permission of the President of the Russian Federation or if only one bid is placed during the tender).

Under SPIC 2.0, an investor may use tax breaks in respect of income, business property, land, and transport taxes. To apply the reduced rates the investor shall be allowed **to separately account for income** from the SPIC 2.0 and other sources. Under the existing SPICs, the reduced rate is valid only in relation to the total income of the investor, only provided that the income from the SPIC forms at least 90% of the total income. Therefore, it is challenging to obtain this reduced rate today. Application of the reduced rate to income from SPIC 2.0 only should solve this problem.

The investor shall be exempt from any amendments to laws worsening the investor’s condition, among other guarantees.

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<sup>2</sup> Draft No. 689101-7 proposes amendments to Federal Law on “Industrial policy in the Russian Federation”, (see the draft ID: <http://sozd.duma.gov.ru/bill/689101-7>), draft No. 689133-7 – amendments to the Budget Code of the Russian Federation (see the draft ID: <http://sozd.duma.gov.ru/bill/689133-7>), draft No. 689130-7 – amendments to the Tax Code of the Russian Federation (see the draft ID: <http://sozd.duma.gov.ru/bill/689130-7>).

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**BUSINESS BREAKFAST OF DEBEVOISE & PLIMPTON UNDER THE AUSPICES OF IX  
SPBILF – “REFORM OF THE REGIMES OF THE GOVERNMENT INCENTIVES TO  
INVESTMENT PROJECTS. WHAT REGIME SHOULD INVESTOR OPT FOR?”**

We are pleased to invite you to the business breakfast of Debevoise & Plimpton LLP under the auspices of IX **Saint-Petersburg International Legal Forum “Reform of the Regimes of the Government Incentives to Investment Projects. What regime should investor opt for?”**

The topics for discussion at the business breakfast will include comparison of the existing “**geographical**” investment regimes (special economic zones, priority social and economic development zones, etc.) and “**contractual**” investment regimes (SPICs, concession agreements, PPP agreements, etc.); consideration of the new investment regimes proposed by the government; discussion of potential project financing venues; and suggestion of criteria for selecting the optimal investment regime based on possible project profiles and their commercial and financial parameters. The discussions in these topics will involve representatives of major companies.

**DATE** **May 16, 2019** (Thursday); **09:30** (*Registration at 9:00*)

**PLACE** **Neva Conference Hall, Kempinski Hotel Moika 22**  
(*22 Moika River Embankment, St. Petersburg*)

**HOW TO PARTICIPATE?** To register please follow the [link](#)  
For additional information please contact us  
at: [debevoiseevents@debevoise.com](mailto:debevoiseevents@debevoise.com).  
**Registration is required** to attend the business breakfast. Participation in the business breakfast is **free**.  
If your schedule does not allow you to participate at the business breakfast, please email us at the address above, and Debevoise & Plimpton LLP will send you the materials and presentations with an overview of these topics.

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We will be happy to answer any questions you may have on this subject.

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