

Legal Alert – 6 September 2013

**DRAFT AMENDMENTS TO THE PROCEDURE FOR
DISPOSING OF GEOLOGICAL INFORMATION**

A Draft Resolution of the Cabinet of Ministers of Ukraine ("**Draft Resolution**") posted on the website of the State Geology and Subsoil Service ("**Derzhgeonadra**") proposes to introduce amendments to the existing Regulations Concerning the Procedure for Disposing of Geological Information, approved by Resolution No. 423 of the Cabinet of Ministers of Ukraine dated 13 June 1995 (the "**Regulations**"). Although the proposed amendments are brief, if adopted they may have serious negative effect on the investment projects in the area of study, exploration and productions of natural resources.

In particular, by removing Clause 8-1 of the Regulations the amendments would end the long-standing practice of free transfer of geological information by Ukrainian State companies - holders of the geological information to foreign investors under Joint Study and Cooperation Agreements ("**JSA**") and Joint Activity Agreements ("**JAA**"). This would further undermine JSA and JAA as instruments for investment in Ukraine's upstream sector, and this is after JSA and JAA have been already consistently compromised by the Government of Ukraine and Ukrainian courts.

Draft Resolution also proposes to introduce amendments to paragraph one of clause 7 of the Regulations, removing local self-government bodies and municipal utility enterprises from the list of the entities that have the right to receive for use the geological information created at the cost of State budget free of charge. This means that the right to receive such geological information free of charge will remain only with the public authorities, State-owned enterprises and the government bodies of foreign States involved in the geological exploration and rational use of subsoil. Moreover, according to the amendments, geological information can be provided free of charge to such government bodies of foreign States only if relevant inter-governmental agreements are entered into (current Regulations do not require any inter-governmental agreements).

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