

Legal Alert

February 2010

Rules for Tender Selection of Joint Implementation Projects under Kyoto Protocol

On October 28, 2009, the Russian Government adopted two enactments concerning joint implementation projects under the Kyoto Protocol to the United Nations Framework Convention on Climate Change (the "**Kyoto Protocol**") in the Russian Federation, namely:

- 1) Russian Government Resolution No. 843 "On Measures to Implement Article 6 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change" (the "**Resolution**"); and
- 2) Regulations "On Implementation of Article 6 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change" (the "**JI Rules**").

For implementation of the JI Rules, the Russian Ministry for Economic Development (the "**MED**") by its Order No. 485 of November 23, 2009 approved the "Rules for the Tender Selection of Applications for Approval of Projects Developed Under Article 6 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change" (the "**Tender Rules**"). The Tender Rules were registered by the Ministry of Justice of the Russian Federation on February 3, 2010.

Therefore, Sberbank may start the tender selection immediately.

1. General principles

The Tender Rules regulate the procedure for tender selection of applications filed by Russian legal entities ("applicants") for approval of projects developed under Article 6 of the Kyoto Protocol and the JI Rules.

The tender selection will be performed amongst projects in the following sectors (or categories) of greenhouse gas sources and/or sinks of greenhouse gases:

- 1) energy sector;
- 2) industrial processes;
- 3) use of solvents and other products;
- 4) agricultural sector;
- 5) waste.

Emission reduction (or absorption) units of up to 30 million tons of CO₂-equivalent can be issued at each tender (the "tender limit").

Information about each tender (including an announcement about the commencement of a tender selection, the time frames for filing applications, the tender limit, report on selection results) is to be published on the official

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website of the operator of carbon units, which pursuant to the Resolution is the Savings Bank of the Russian Federation (Sberbank).

No fee is to be paid for participation in a tender.

2. Tender Selection Procedures

To participate in a tender, an applicant files an application with the operator of carbon units in accordance with the requirements set forth, and comprising of the documents listed in, Annex 2 to the Tender Rules.

In addition to the documents comprising the applications pursuant to Annex 2 to the Tender Rules, the applicant may add other documents containing information about the investor and other data demonstrating the benefits of the project.

The time frame for filing applications may not exceed 25 days from the announcement of the tender on the official website of the operator of carbon units.

No application is to be considered if filed in breach of any requirements set forth in the JI Rules or the Tender Rules.

Within five business days from the receipt of the applications, the operator of carbon units reviews the applications to ensure their compliance with the Tender Rules and sends the applicant its decision on acceptance of the application or a motivated refusal.

Within 45 days from the date of acceptance of applications the operator of carbon units evaluates the applications and assigns scores to each application.

The results of the evaluation of applications are to be provided to the expert council established by the operator of carbon units. Within 10 days the expert council approves the results of the evaluation and prepares its recommendations for the focal point (pursuant to the JI Rules this is the MED).

3. Selection Criteria

The operator of carbon units evaluates the applications based on the following selection criteria:

- 1) energy and ecological efficiency (κ_1) – to be determined by comparing the amounts of the respective reduction in energy consumption and environmental impact before and after project implementation with best technologies and practices in such projects;
- 2) technical and financial potential (κ_2) – to be determined on the basis of the submission of the investors on the sufficiency of its technological means and capability and (or) agreements with knowledgeable third parties, as well as of availability of own or attracted financing for implementation of the project in accordance with the project documentation; and
- 3) economic and social impact of project (κ_3) – to be determined on the basis of the submission of the investor on the compliance of the planned results of the project with the decisions of the Russian Government on the innovative development of the economy and social sphere, and with the decisions of the Presidential Commission for Modernization and Technological Development of Russia's Economy.

4. Computing Total Score of Application

The total score of an application is the result of multiplying the scores for each selection criteria according to the following formula:

$$T=S1*S2*S3,$$

where T is the total score of the application, and S1, S2 and S3 are the scores conferred for each of the criteria:

Criteria	Scores for criteria
k1	from 1 to 5
k2	from 1 to 5
k3	from 0 to 3

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Additional Notes

Should you have any questions, please contact members of the Climate Change and Energy Efficiency Practice Group of the Moscow office of Baker & McKenzie: Max Gutbrod, Partner, and Sergei Sitnikov, Associate, by calling +7 (495) 787 27 00.

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