

# Uzbekistan

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## Legislation and jurisdiction

### 1 What is the relevant legislation and who enforces it?

In Uzbekistan the legislation on antimonopoly regulation of merger transactions is reflected in the following legal acts:

- Law of Uzbekistan ‘On competition and limitation of monopolistic activity in the commodity markets’ of 27 December 1996 with No. 355-I. This law provides the basic provisions for regulating antimonopoly activity in the commodity markets of the Republic of Uzbekistan.
- Law of Uzbekistan ‘On natural monopolies’ of 24 April 1997 with No. 398-I (new edition approved by the Law of Uzbekistan of 19 August 1999), which regulates issues on the execution of transactions of natural monopoly companies, including such companies as:
  - those which transport oil, oil products and gas through pipelines;
  - those which produce and transport electric and heat energy;
  - railways’ infrastructure companies;
  - mailing services for general use;
  - water supply and sewerage services; and
  - the air navigation services of ports and airports.

Additionally, except for the above-mentioned documents, the rules on merger transactions are stipulated in a number of by-laws directed towards identification of clearance procedures stipulated by the laws of Uzbekistan.

The state body executing the antimonopoly legislation is considered to be the state committee of the Republic of Uzbekistan on Demonopolisation, support of competition and entrepreneurship (the Antimonopoly Body). The Antimonopoly Body includes central apparatus and regional departments within its jurisdiction. The total number of its employees is comprised of 107 individuals in its central body and 599 individuals in the regions.

(For more information contact the Antimonopoly Body at: +998 71 139 1542, or visit the website [www.antimon.uz](http://www.antimon.uz)).

### 2 What kinds of mergers are caught?

As far as we are aware, Uzbek legislation requires preliminary clearance by the Antimonopoly Body for two categories of transactions:

- those which involve the reorganization or liquidation of participants in the commodity markets (the first category of transactions); and
- those involving the ordinary purchase of assets of one participant in the commodity markets by another (the second category of transactions).

In the first category, the following transactions are subject to control:

- the formation, merger and acquisition of associations of legal entities;
- the merger and acquisition of participants of the commodity markets with establishment of financial-industrial groups, holding companies; and
- the liquidation and division of enterprises, which leads to the formation of participants in the commodity markets holding a dominant position (except cases where liquidation is executed under a legally enforceable court decision).

A dominant position is considered to be one where a participant (ie, group of individuals) with shares of 65 per cent and more in the commodity markets. Additionally, a participant in the commodity markets with shares of 35 to 65 per cent may also be considered to have a dominant position in cases where it is established by the Antimonopoly Body on the basis of special criteria characterising certain commodity markets.]

In the second category, the following transactions are subject to control:

- if a business entity (individual or legal entity) obtains more than 35 per cent of the voting shares in the equity capital of an economic entity. This requirement shall not apply towards the founders of participants in the commodity markets at their formation, except for cases of the establishment of financial-industrial groups (holding companies); and
- if a person or a group of persons obtain the right to determine the business or perform the functions of management of an economic entity, including through agreements, contracts, orders or otherwise.

Transactions relating to the second category are subject to control of the existence of at least one of the terms, where:

- the value of assets participating in the respective transaction of individuals exceeds four thousand times the minimum monthly wages (currently US\$40,000);
- one of the parties to a transaction is a legal entity included in the Register of Legal Entities with Dominant Market Position (the Register is kept by the Antimonopoly Body of Uzbekistan); or
- an acquirer is a group of individuals which controls the activity of the legal entity through holding the controlling portfolio of shares or through possession of the right to make obligatory decisions (see question 4 for the notion of a group of individuals).

### 3 Are joint ventures caught?

Joint ventures are considered to be the subject of the general legal regime. There are no separate rules for such companies in Uzbekistan.

### 4 Is there a definition of 'control' and are minority and other interests less than control caught?

Unfortunately, the antimonopoly legislation of the Republic of Uzbekistan has no certain definition of the notion of 'control'. Examining the notion of 'control' in relation to merger transactions, it is identified in the procedure of preliminary clearance of transactions listed in question 2 (hereinafter merger transactions).

Minority interests are also subject to control, if they participate in a group of individuals and conclude through that group a transaction involving the acquisition of voting shares (assets) of participants in the commodity markets, granting the group of individuals the right to dispose of more than 35 per cent of these shares; or rights (including those established by means of treaties, agreements, instructions, contracts or other methods) allowing for the identification of the terms of execution of entrepreneurial activity by participants in the commodity markets, or for carrying out the functions of its executive body.

Conditions regarding a group of individuals shall be considered fulfilled at the conclusion of the above-mentioned transactions by minorities along with:

- an individual or individuals who, on the basis of oral or written agreement, have the right to dispose directly or indirectly of controlling shares or others sufficient for the rendering of a decisive influence on the activity of participants in the commodity markets. Indirect disposal is considered as disposal of the votes of legal entities through third parties, in relation to which the first individual has a right, under the oral or written transactions;
- transactions by two or more individuals, on the basis of an agreement, according to which there is a right to define the terms of execution of entrepreneurial activity of one or several parties to agreement or other individuals, or carrying out other functions of their executive body; as well as in case when individuals:
- have a right to appoint more than 50 per cent of the executive body and/or the board of directors (supervisory council) of a legal entity;
- the same individuals represent more than 50 per cent of the executive body and/or the board of directors (monitoring council) of two or more legal entities.

Therefore, the participation of minorities in the above-mentioned transactions through an established group of individuals shall be interpreted by the legislation of Uzbekistan as an activity of that group of individuals itself and accordingly as an activity of a single participant.

### 5 What are the jurisdictional thresholds?

As mentioned in question 2, the legislation of the Republic of Uzbekistan provides for two categories of transactions which are impossible to execute without preliminary clearance made by the Antimonopoly Body, including:

- transactions involving the reorganisation or liquidation of participants in the commodities markets; and
- transactions assuming the simple purchase of shares of one participant of the commodity markets by another.

Both the first and second categories of transactions shall only be executed based on preliminary clearance by the Antimonopoly Body. However the Antimonopoly Body possesses broader jurisdiction in relation to the first category than the second.

Therefore, based on the first category of transactions, the Antimonopoly Body shall have a right to:

- control, irrespective of any conditions, including costs of transaction, a share in the market or turnover of the goods of participants in the market;
- request information on the transaction, so that its form and character may be directly identified by the Antimonopoly Body;
- make the transaction's execution subject to the implementation of requirements, directed towards the maintenance of competition by participants in the commodities markets; and
- demand the restoration of conditions of competition from the management of commodity markets, in the event of the occurrence or strengthening of a dominant position of a participant in the commodity markets.

Based on the second category of transactions, the Antimonopoly Body shall have the right to:

- execute control, if at least one of the following conditions applies to the transaction:
  - the total balance cost of assets partaking in the respective transaction of individuals exceeds four thousand minimum monthly salaries (approximately US\$40,000);
  - one of the participants in the transaction is considered to be a participant in the commodity markets, included in the register of economic subjects occupying dominant position in the commodity markets; or
  - a group of individuals is considered as a purchaser, controlling the activity of the mentioned economic entity; and
- request important information in order to decide whether or not to approve the transaction.

Thus, the jurisdiction of the Antimonopoly Body in the Republic of Uzbekistan is implemented depending on the category of transaction concluded by the parties.

### 6 Is the filing mandatory or voluntary? If mandatory, do any exceptions exist?

In the Republic of Uzbekistan, filing of merger transactions with the Antimonopoly Body is considered to be a mandatory procedure. Non-performance of this procedure shall be interpreted as an infringement of antimonopoly legislation, and will lead to:

- the invalidation of the economic subjects' state registration, and liquidation of the participants in the commodity markets, as well as a record of their exclusion from the register of economic subjects as a result of their liquidation;
- invalidation of the concluded sale and purchase transaction involving the purchase of the assets of one participant in the commodity markets by another.

We are not aware of any exceptions to the above-mentioned rules.

### 7 Do foreign-to-foreign mergers have to be notified and is there a local effects test?

The law of the Republic of Uzbekistan 'On competition and limi-

tation of monopolistic activity in the commodity markets' of 27 December 1996, stipulates that the law extends to actions and agreements made or concluded by foreign entities outside the territory of the Republic of Uzbekistan, but having a restrictive influence on competition, and other negative consequences, in the markets of the Republic of Uzbekistan.

Therefore, any transaction, including those concluded abroad, which restricts competition in the Republic of Uzbekistan, is subject to clearance in the order provided by the legislation of the Republic of Uzbekistan.

### Notification and clearance timetable

**8** What are the deadlines for filing? Are there sanctions for not filing and are they applied in practice?

As was stated above, the antimonopoly legislation of the Republic of Uzbekistan provides for two categories of transactions that fall under the control of antimonopoly bodies (see question 2). Neither of these categories of transactions has an exact deadline for filing. In this case, it is considered as important to meet the requirement stipulated by the antimonopoly legislation regarding preliminary clearance for the above-mentioned transactions. Furthermore, the first category of transactions requires that, at the merger or acquisition of economic subjects, their founders, individuals or authorities who have made the decision regarding the merger or acquisition, have to fulfill the requirement regarding 15 days' notification to the Antimonopoly Body, mentioning the type of activity, and the volume of sales and production.

Infringement of the above-mentioned rules shall entail the following sanctions:

- a fine of approximately US\$50 to US\$70 for conclusion of the second category transactions by economic subjects, without preliminary clearance by the Antimonopoly Body;
- a fine of approximately US\$100 to US\$200, and on the managers of legal entities a fine of US\$30 to US\$50 for not providing the Antimonopoly Body with information, or deliberately providing it with false information;
- a fine of approximately US\$600 to US\$800, and 5 per cent from the amount of damage – but not more than US\$1,500 – for the conclusion of agreements which entail limitation of competition, without the approval of the Antimonopoly Body;
- confiscation of the profits obtained as a result of violation of antimonopoly legislation in the established order.

Payment of a penalty does not remove the obligation to implement a decision or instruction of the Antimonopoly Body, or to undertake other actions stipulated by the antimonopoly legislation.

In addition to administrative sanctions, civil-legal sanctions for non-filing, expressed in the recognition of the transaction as void, and pleading for the transaction as void, as well as illegality of the state registration for the first category of transactions, may occur.

**9** Who is responsible for filing and are filing fees required?

As far as we are aware, the following individuals are considered as responsible for filing:

- under the first category of transactions: individuals or bodies making the decision on the merger, acquisition and liquidation of economic subjects; and

- under the second category of transactions: individuals (ie, a group of individuals) who acquire 35 per cent or more of voting shares of a participant in the commodity markets, as well as individuals (ie, a group of individuals) who acquire the rights in the participant of the commodity markets which shall allow them to define the conditions of execution of entrepreneurial activity or to carry out the functions of its executive body.

As far as we are aware, there are no mandatory fees for filing of merger procedures in Uzbekistan.

**10** What are the waiting periods and does implementation of the transaction have to be suspended prior to clearance?

The waiting period for clearance of the first category of transactions by the Antimonopoly Body shall not exceed 30 days from the moment the applicant submits the necessary documents. As for the second category of transactions, the term shall not exceed 10 days from the moment the participant in the commodity markets submits the application. In practice, the above-mentioned terms may be suspended by the Antimonopoly Body – provided that, prior to clearance, the transaction shall not have a legal effect (ie, there will be no legal consequences for the parties under the actions undertaken) and shall only be considered as an intention of the parties. Transactions may only be executed on a legal basis subsequent to approval of the Antimonopoly Body.

**11** What are the possible sanctions involved in closing before clearance and are they applied in practice?

Execution of a transaction prior to completion of clearance by the Antimonopoly Body may entail invalidity and illegality of the transaction (see questions 6 and 8).

**12** What solutions (such as a local 'hold-separate' arrangement) might be acceptable to permit closing before clearance in a foreign-to-foreign merger?

See question 10.

**13** Are there any special merger control rules applicable to public takeover bids?

As far as we are aware, there are no special merger control rules applicable to public takeover bids in Uzbekistan. However, the main rule is considered to be the requirement of the Uzbek legislation on preliminary filing of transactions with the Antimonopoly Body. This filing requirement shall grant the parties the right to conclude a transaction. The transaction shall be concluded only after the Antimonopoly Body files the results of the public takeover bids.

If the parties conclude a transaction without preliminary filing with the Antimonopoly Body, this transaction may be recognised as void, and so the parties may bear responsibility for violation of the antimonopoly legislation (see question 8).

**14** What is the level of detail required in the preparation of a filing?

Unfortunately, the Law of the Republic of Uzbekistan 'On competition and limitation of monopolistic activity in the commodity markets' of 27 December 1996, provides only for a general list of documents important for the Antimonopoly Body to make

a decision in relation to merger transactions. However, at the same time, this law empowers the Antimonopoly Body to request any other information from the applicant. Therefore, the list of documents provided by the legislation and the list of documents which is provided in practice differ considerably.

As provided by the legislation, the list of documents shall depend on the categories of transaction mentioned above. In particular for the first category of transactions the general list of documents shall include:

- an application regarding approval of the establishment, reorganisation or liquidation of economic subjects; and
- information on the main types of activity of each of the uniting participants of the commodity markets, their shares in the respective commodity markets and approval on acquisition.

There is a separate list of documents to be provided to the Antimonopoly Body in order to establish holdings and financial-industrial groups.

There is only one document to be submitted to the Antimonopoly Body that is an application for approval of the second category of transaction. In practice, this list is much broader. For instance, at the conclusion of a transaction on acquisition of assets (shares) of a participant in the commodity markets by an individual (a group of individuals), providing this individual (a group of individuals) has a right to dispose of 35 per cent or more of such assets (shares), the following documents shall have to be submitted:

- documents to be provided on behalf of a legal entity:
  - a copy of their charter;
  - a copy of the Constituent Agreement or decision of a single participant, on the founding of the company;
  - copies of balance sheets (credit-debit and financial results); and
  - a list with the full names and occupation of members of elective and executive bodies of the company, including the chief accountant (this should be a simple copy certified by the company seal and by the signature of the company's administration);
- documents to be provided on behalf of the purchaser of shares:
  - an application with the request for approval of the transaction (in Russian or English);
  - a copy of the charter (in the Russian or Uzbek languages);
  - a copy of the Constituent Agreement or an equivalent document (in the Russian or Uzbek languages);
  - copies of balance sheets (credit-debit and financial results) (a simple copy of the balance sheets certified by a notary);
  - a list with the full names and occupations of the members of elective and executive bodies of the company, including the chief accountant (in the Russian or Uzbek languages);
  - information on the future plans of the purchasing company regarding the purchased share (a simple description of intentions of the company regarding the purchased share; plans for the future, ie, either to sell the shares (assets) or to invest in the company and develop it).

Documents provided from abroad (for example, the charter and the constituent agreement), shall be subject to mandatory legalisation in the consulate office of the Republic of Uzbekistan and to subsequent translation into the Uzbek and Russian languages,

certified by a local notary.

Therefore, it can be stated that an exact list of documents required for the decision – as well as the character and form for their presentation – shall be requested by the Antimonopoly Body, based on the particular transaction proposed.

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#### 15 What is the timetable for clearance and can it be speeded up?

Approval by the Antimonopoly Body shall be carried out in two basic stages:

- preparation of the necessary documentation and presentation of it to the Antimonopoly Body; and
- the issue of the Antimonopoly Body's decision on the transaction.

The duration of the first stage depends on the applicant, but in practice it takes around one month. The second stage takes from 30 days (for the first category of transactions) to 10 days (for the second category of transactions). The Antimonopoly body may suspend the duration of the second stage on its own initiative.

We are not aware of the lawful means of suspending the term for the consideration of an application for merger clearance.

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#### 16 What are the typical steps and different phases of the investigation?

The legislation of the Republic of Uzbekistan has no detailed provisions on the actions of the Antimonopoly Body in the investigation procedure. As far as we are aware, the Antimonopoly Body has to consider, within the period specified in question 10:

- the sufficiency and reliability of information presented by an applicant;
- the definition of existing borders of the commodity markets relevant to the investigation to be undertaken;
- the occurrence or strengthening of a dominant position with participants in the commodity markets, limitation of competition, or other influence of transaction on the commodity markets;
- analysis of the structure of the participant being establishing in the commodity markets (in particular regarding the occurrence of a group of individuals); and
- other factors influencing competition, defined directly by the Antimonopoly Body.

During the investigation, the Antimonopoly body may request any further information from the applicant. Moreover it may use the data provided by the State body on Statistics, the State Customs body and other public authorities. Additionally, the Antimonopoly body shall have a right to develop special conditions for the applicant to execute, for the concluded transaction to be considered valid.

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### Substantive assessment

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#### 17 What is the substantive test for clearance?

The most essential question investigated by the Antimonopoly Body concerns the establishment or strengthening of a dominant position with participants in the commodity markets, limitation of competition or other negative influence of the transaction to be approved.

A dominant position is identified in the concrete commodity markets (boundaries are identified by the Antimonopoly Body) depending on the formed common share of the participant in the

market. Shares on the commodities market from 35 per cent and more may entail a dominant position.

**18** Is there a special substantive test for joint ventures?

Joint ventures are considered to be the subjects of the general legal regime. There are no separate rules for these types of companies in Uzbekistan.

**19** What are the 'theories of harm' that the authorities will investigate?

There is no special regulation concerning 'theories of harm' in Uzbekistan. The investigation of merger transactions shall be executed by the Antimonopoly Body in relation to the prohibition of an occurrence or strengthening of a dominant position, and limitation of competition. In this case, the general definition of harm shall be considered as follows:

- non-existence of a substitute for the goods (or interchangeable goods) provided by the applicant in the commodity markets, and possibilities of limitation of competition;
- difficulty of access to the market for other participants in the commodity markets, or other limits on the freedom of their economic activities;
- the conclusion of agreements entailing the occurrence or strengthening of a dominant position and directed towards the establishment of coordinated actions (ie, excluding the competition) in the market (ie, effecting a cartel agreement);
- the conclusion of agreements between non-competing participants in the markets of goods, where one of them occupies a dominant position, and another is considered its supplier or customer, if such an agreement restricts competition; and
- other conditions restricting competition.

**20** To what extent are non-competition issues (such as industrial policy or public interest issues) relevant in the review process?

According to the legislation, in the process of investigating the clearance of merger transactions, the Antimonopoly Body shall have a right to request any document. In our view, documents not regulating the question of competition in the market (including industrial policy, etc), may also influence the process of investigation, in cases where they expressly or by implication assist in defining the following in relation to the goods:

- commodity markets;
- cycles of production;
- the cost of goods; and
- other factors, indirectly influencing goods and their indicators.

**21** To what extent does the authority take into account economic efficiencies in the review process?

According to the legislation, the Antimonopoly Body shall have a right to approve the transaction entailing the limitation of competition, when the parties to a transaction prove that the positive effects of their actions – such as assisting in the improvement of trade conditions in the market, increasing the competitiveness of goods and providing considerable benefits to customers – exceed the negative consequences for the respective commodity markets.

## Remedies and ancillary restraints

**22** What powers do the authorities have to prohibit or otherwise interfere with a transaction?

The Antimonopoly Body has the right to interfere with a transaction, where the transaction is executed in violation of the antimonopoly legislation. Interference may be executed within the judicial order, recognising the actions of parties violating the requirements of antimonopoly legislation as void, as well as mandatory separation of the subjects of the commodity markets.

**23** Is it possible to remedy competition issues, for example by giving divestment undertakings or behavioural remedies?

The Antimonopoly Body may make its decision on the execution of a merger transaction depend on certain conditions directed towards the maintenance of competition. Required conditions are identified by the Antimonopoly Body and provided to the applicant.

**24** What are the basic conditions and timing issues applicable to a divestment or other remedy?

The validity period of basic conditions directed towards the maintenance of competition shall be stipulated in the decision of the Antimonopoly Body on execution of the merger transaction. The usual duration of the mentioned period depends on the elimination of any negative influence on competition, mentioned in the decision of the Antimonopoly Body.

**25** What is the track record of the authority in requiring remedies in foreign-to-foreign mergers?

As far as we are aware, the legal practice of antimonopoly legislation concerning merger transactions of foreign companies is not developed enough: the transactions of foreign subjects requiring the approval of the Antimonopoly Body are rare. This situation is caused by a lack of mechanisms in the legislation regulating the procedure of clearance concerning foreign subjects.

**26** In what circumstances will the clearance decision cover related arrangements (ancillary restrictions)?

The current legislation makes no provision for ancillary restrictions, which may be covered by agreement of the parties, nor does it provide for restrictions that may only be covered by the decision of the Antimonopoly Body.

However, at the conclusion of transactions, including ancillary restrictions of conditions of competition in the commodities market of the Republic of Uzbekistan, where at least one of the parties is deemed to be a participant of the commodities market holding a dominant position, it is important to consider two opposite opinions.

The first opinion is the liberal approach based on attachment of merger participants to a group of persons, the actions of which are interpreted as the actions of a unified economic subject. Such an approach allows the participant in the commodities market to ascertain any ancillary restrictions to competition for the company established in Uzbekistan (ie, all restrictions shall be ascertained within the boundaries of a unified economic subject, whereas restrictions to be covered by decision of the Antimonopoly Body cease to exist in Uzbekistan).

The second opinion is the conservative approach based on detachment of merger participants, whereas their actions are interpreted as the actions of independent (separate) economic

subjects. Such an approach leads to an interpretation of the established restrictions within the bounds of merger, as agreements (coordinated actions) of economic subjects on restriction of competition. Coordinated agreements may not be concluded in Uzbekistan (the list of prohibited actions both for competing and not competing economic subjects is provided in article 6 of the Law on competition and restriction of monopolistic activity in the commodities market).

As far as we know, the employees of the Antimonopoly adhere to the second opinion, therefore, there is a possibility that any restriction of the actions of one economic subject by another, within the scope of antimonopoly regulation, may be considered a prohibited agreement in Uzbekistan.

However, existing discrepancies in the opinions do not exclude possible introduction of necessary limitations, by means of corporative management of the company established in Uzbekistan.”

### Involvement of other parties or authorities

**27** Are customers and competitors involved in the review process and what rights do complainants have?

The Antimonopoly legislation of the Republic of Uzbekistan has no detailed regulation for the procedure of the review process of merger transactions; therefore we are not aware of which individuals might be involved in the review process.

However, according to the legislation, the Antimonopoly Body has the right to request and receive information required for the analysis of the level of monopolisation in the commodity markets from the state bodies, public authorities and participants of the commodity markets on a gratuitous basis. Therefore, we do not exclude the possibility that customers and competitors may be involved in the review process.

Moreover, there are no provisions on the rights of applicants (ie, complainants) in the given process, provided that the Antimonopoly Body has the right to request any necessary information from the applicant required for the review process.

**28** What publicity is given to the process and how do you protect commercial information, including business secrets, from disclosure?

As with any other information, information – including trade secrets of the applicant – may be requested by the Antimonopoly Body for the purposes of investigation of merger transactions. Information containing ‘trade secrets’ provided to the Antimonopoly body for investigation purposes shall not be subject to disclosure. If such information is disclosed, the Antimonopoly Body is obliged to pay compensation for any damages caused.

Other individuals may only see information containing trade secrets with the consent of the owner.

In spite of the legal protection of the applicant from disclosure of information containing trade secrets by the Antimonopoly Body, we are not aware of any cases involving this issue in the Republic of Uzbekistan.

**29** Do the authorities cooperate with antitrust authorities in other jurisdictions?

As far as we are aware, the Antimonopoly Body only cooperates with the antitrust authorities of CIS countries (including the Republic of Azerbaijan, the Republic of Armenia, the Republic of Belarus, Georgia, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Moldova, the Russian Federation, the Republic of Tajikistan and Ukraine) within the existing bounda-

ries of the legal-contractual base of Uzbekistan.

**30** Are there also rules on foreign investment, special sectors or other relevant approvals?

As far as we are aware, certain rules on antimonopoly regulation are stipulated in the legislation of the Republic of Uzbekistan, towards the following.

### Subjects of natural monopolies

The stipulated procedure in relation to the subjects of natural monopolies assumes the Antimonopoly Body’s approval for the execution of transactions, as a result of which the subject of a natural monopoly:

- acquires ownership rights to the basic means, or the right to dispose of the basic means not intended for the manufacture (or sale) of goods, in relation to which the state regulation applies, when the balance cost of such basic means exceeds 10 per cent of the cost of the subject of the natural monopoly’s own capital;
- transfers to another participant in the commodity markets the right of ownership or possession and/or disposal of part of the basic means intended for the manufacture or sale of the goods of natural monopolies, if the balance cost of these basic means exceeds 10 per cent of the cost of the subject of the natural monopoly’s own capital; or
- is either created, or subject to reorganisation or liquidation.

### Commercial banks

The Central Bank of Uzbekistan needs to be notified of acquisitions of more than 5 per cent of the assets of a commercial bank in Uzbekistan, as a result one or several transactions by a legal entity or an individual, or a group of legal entities and individuals connected with each other by an agreement, or controlling each others’ properties. If such entities acquire 20 per cent or more, the notification is replaced by preliminary consent of the Central Bank of Uzbekistan.

Preliminary consent of the Central Bank is also required for enhancements of the charter capital of local banks at the expense of attracting the means of non-residents of the Republic of Uzbekistan.

### Judicial review

**31** What are the opportunities for appeal or judicial review?

The legislation of the Republic of Uzbekistan states that in the event of a disagreement with a decision of the Antimonopoly Body, the interested party shall have the right to address the court with a claim on recognition of such decision as fully or partially void, or on cancellation or change of the decision on application of economic sanctions.

Decisions or instructions of the Antimonopoly Body may be appealed within one month from the date that they are issued.

**32** What is the usual time frame for appeal or judicial review?

Subsequent to the submission of an appeal against a decision of the Antimonopoly Body, the judicial bodies shall be obliged to make a decision on the substance of the claim within a period of not less than 40 days. This period may be suspended by the chairman of the economic court where the case is being heard, but for not more than one month.

**Update and trends**

We have not found any key decisions made during the period from 2006 to 2007 concerning the antimonopoly regulation of merger transactions; moreover, no legislative-normative act has been adopted in this field within the specified period.

Developments in the area of merger control over the past year may be identified in the practice of antimonopoly regulation of foreign-to-foreign merger transactions influencing competition in the Republic of Uzbekistan, as well as by the application of a broader interpretation of the notion of a 'group of individuals' in relation to foreign subjects.

**Enforcement practice and future developments**

**33** What is the recent enforcement record of the authorities, particularly for foreign-to-foreign mergers?

We are not aware of any such record.

**34** What are the current enforcement concerns of the authorities?

The main issue that the authorities face is the regulation of particular sectors of natural monopolies or other structures under ownership of the state. Because a considerable quantity of assets in the economy is still under the ownership of the state, the antimonopoly regulation often turns out to be just a formal procedure.

**35** Are there current proposals to change the legislation?

In our view, the Law 'On competition and limitation of monopolistic activity in the commodity markets' of 27 December 1996 still requires development. This needs to be concentrated on observance of the principle of direct effect contained in the provisions of the legislation. A detailed procedure for the clearance of merger transactions will have to be included in the law, including:

- a reflection on the clearance phases; and
- the establishment of an exact list of documents and the character of information that needs to be provided to the Antimonopoly Body.

Additionally, it is necessary to reflect the existing jurisdiction of the Antimonopoly Body of Uzbekistan in relation to foreign-to-foreign merger transactions in a detailed manner, to reconsider the notion of a 'group of individuals', as well as to introduce an order of establishment of the borders of commodities markets by the antimonopoly legislation.

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