



## THE AMENDMENTS OF 2013, 2014 AND 2015 TO THE LAW OF MONGOLIA ON MINERALS (2006)

Mongolian mining sector has been a major contributor to its economic growth and development. Since the *Law of Mongolia on Minerals*, which was passed on 8 July 2006 and came into effect on 26 August 2006 (the “**Minerals Law**”), it has been amended 22 times through Mongolian Parliament sessions.

We draw down below some major changes, which have been introduced and reflected since 2013 in the Minerals Law upon the current Parliament took the power in 2012.

1. The major amendments approved since the year of 2013.
  - *Stabilization certificate.* The *Law of Mongolia on Investment* (the “**Investment Law**”) was enacted on 3 October 2013. The Investment Law sets forth the terms in relation to stabilization of royalties by the rates as determined under the stabilization certificate<sup>1</sup>, which was provided to the investor (*if the investor applied to do so*) who invests in the mining sector. Therefore, in compliance with the Investment Law, the relevant amendments were made and approved under the *Law of Mongolia on Amending the Minerals Law*, which was enacted on 3 October 2013.
  - *Tax incentives.* The Parliament of Mongolia enacted the *Law of Mongolia on Amending the Minerals Law* on 24 January 2014 under which in the event the license holder sells the extracted gold to the Bank of Mongolia or its authorized banks, the royalty rate will be decreased to 2.5%.
  - *Ethnographical, paleontological and archeological matter.* Under the *Law of Mongolia on Amending the Minerals Law*, which was approved on 15 May 2014, new change has been made, which stipulates that a license holder intending to undertake exploration and mining works is required to carry out a survey from an organization with expertise in ethnographical, paleontological and archaeological matters. The purpose of such amendment is to avoid any deterioration to cultural heritage, also to ensure that Mongolian law is consistent with the concepts of the 1972 World Cultural and Natural Heritage Convention.
  - *Strategic significant deposit.* On 18 February 2015, the Parliament of Mongolia approved the *Law of Mongolia on Amending the Minerals Law* that sets out in the event the relevant parties to the contract agree to transfer the percentage of the state share in minerals deposit of strategic importance upon the approval of applicable authority in charge, the license holder who receiving the state share has to pay the royalty by percentage approved by Government of Mongolia.

---

<sup>1</sup> A stabilization certificate may be granted to an investor who qualifies the requirements under Article 16.1 of the Investment Law under which the rates and amounts of certain taxes and fees are stabilized for certain period.



2. The main amendments, introduced under the *Law of Mongolia on Amending the Minerals Law*, which was passed and came into effect on 1 July 2014.

Under the initiation of the Government of Mongolia, which formed as a result of 2012 election, to reform the certain laws in order to increase foreign investment, therefore achieve the primary objective of stimulating the economy, the Parliament of Mongolia approved the *Law of Mongolia on Amending the Minerals Law* on 1 July 2014, which came into effect on the same day of approval (the “**Amendment**”). The Amendment includes some key changes, which include, among others:

- as for the common minerals, and its exploration and mining activities are now stipulated under the separate law, therefore, it is no longer regulated under the Minerals Law;
- the exploration and collection of non-ferrous metals and precious stones will now require a license similar that of other common minerals;
- the powers of Parliament of Mongolia, the Government of Mongolia, the Mongolian Ministry of Mining, Mineral Resources Authority of Mongolia (“**MRAM**”) have been expanded by the Amendment, which include, among others:
- the Government of Mongolia now to approve the form of contracts to be entered between license holders and local administrative bodies in respect of environmental protection, mineral extraction, infrastructure development and job creation;
- the Government of Mongolia now to approve those areas for which exploration licenses may be granted and publicly announce the same; and
- the Ministry of Mining now to approve the certain regulations and procedures such as in relation to acceptance of mines and concentrating plants into operation, which previously approved by MRAM even though the Minerals Law did not provide the authority to MRAM.
- the new agency, namely the “National Geological Office”, was created under the Amendment, which will be responsible for conducting various geological cartographic surveys and various scientific research, and for maintain a national database in this regard;
- the term for exploration licenses has been extended to 12 years, which was 9 years prior to the Amendment;
- the license holders have now obligation in giving priority to business entities registered in Mongolia when procuring goods, works or services and hiring subcontractors;
- besides above obligation, the license holders shall give priority to Mongolian concentrator plants when selling its extracted, concentrated or semi-processed products;
- a license holder whose licensed area has been confiscated as a result of the establishment of a special purpose zone in accordance with the *Law of Mongolia on Land* must now be compensated by the relevant authority who issued the confiscation decision within one year of the approval of such decision. Therefore, the Minerals law specifically provides that in the event compensation is not paid within the specified period, the license holder may continue operating. The most significantly, the Amendment stipulates that in the event the confiscated area is not treated anymore as the special purpose zone, such area will be returned to the previous same license holder;
- the maximum area which may be licensed under a single exploration license has been reduced from 400,000 hectares to 150,000 hectares;
- the license holders must ensure that feasibility studies include detailed information on the transportation of mining products, infrastructure development and funds required for mine restoration and closure works;



- the Amendment revised the previous regime in relation to fines for violations of the Minerals Law. Instead, now, the amounts of fines are determined based on the minimum monthly wage; and
- a license holder has now obligation that the prepared documentations to be reviewed by accredited technical experts and specialists when to apply for exploration and mining licenses.

## **CONCLUSION**

The purpose the above amendments is to promote transparency and responsible government policies and to encourage foreign and domestic investors in the mining sector in an effort to ensure economic growth. Therefore such amendments to the Minerals Law have clarified many questions in relation to the roles and responsibilities of the authorities in decision making which were lacked in the previous regime. In addition, some changes such as an extension of exploration period, compensation matters if the license holder's land is confiscated, returning the land to previous license holder if the area is no longer treated as "special purpose zone" are definitely expected to attract more investors.

**ORGIL DAVAASUREN, ASSOCIATE**

**ASHID ADVOCATES LLP**

**Ulaanbaatar  
2015**