

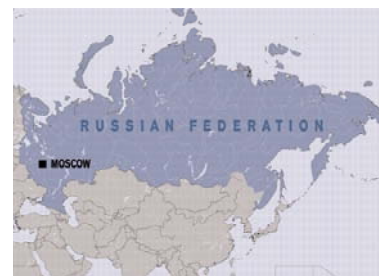
# Russia

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## Corporate authorizations: challenges under Russian law

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**CGS&H Limited Liability Company  
Moscow**

**Cameron E Half**

**Cleary Gottlieb Steen & Hamilton  
London**

Since the dissolution of the former Soviet Union, tremendous progress has been made in Russia in adopting legislation for a free market economy. Russia has revised its civil and tax law, adopted corporate, securities and anti-monopoly legislation, and developed efficient foreign exchange controls. Despite this progress, some basic difficulties remain, arising not from the absence of law but rather from too much ill-conceived law and inappropriate remedies.

For example, corporate transactions involving Russian joint-stock companies, whether in the area of capital markets or mergers and acquisitions, present difficult and often frustrating issues relating to corporate authorizations. In particular, the approval requirements for *interested-party transactions* and *major transactions* often become significant hurdles. Issuing a *due authorization* opinion – an almost routine matter in most Western jurisdictions – under Russian law can be one of the most challenging aspects of legal practice. Finding reasonable solutions to these problems is further complicated by the form-over-substance approach of much of Russian legal practice, in which practitioners seek technical solutions to problems that comply with the letter of the law, but not necessarily the underlying spirit.

Rules on interested-party transactions (IPTs) state that a company's directors, senior management, shareholders who with their affiliates own 20% of the company's shares, or persons who can give mandatory instructions to the company are *interested persons* when they or their close family members or affiliates are a party to, intermediary in or beneficiary of a transaction by the company, or own 20% of the shares or hold directorships or senior management positions in any legal person that is a party to, intermediary in or beneficiary of a transaction by the company. Some elements of these definitions are subject to further interpretation. For example, Russian corporate law does not define an *affiliate*, but instead borrows the far-reaching definition contained in competition law, resulting in otherwise unremarkable transactions being classified as IPTs. There is also no clear definition of a *beneficiary*, complicating the process of determining whether a transaction is an IPT.

Depending on their size, IPTs must be approved by the disinterested or independent directors, or by disinterested shareholders. Given the relatively low thresholds, in practice a requirement for shareholder approval is the most common result. For many widely held Russian companies, approval by disinterested shareholders can be a complex

and unpredictable process, and in many cases is simply not a practicable solution, especially in capital markets transactions. As discussed more fully below, capital markets transactions in which IPT concerns may play an unexpectedly large role include international bond offerings by companies that have a 20% shareholder, when the structure involves, as is often the case for tax reasons, an issuance by a finance subsidiary with a parent guarantee and combined primary and secondary share offerings when one or more of the selling shareholders owns 20% of the company's shares.

A major transaction (MT) is any transaction involving the acquisition, alienation, or possibility of alienation, directly or indirectly, of property with a value exceeding 25% of the book value of the company's assets under Russian Gaap. Where the value of the transaction is between 25% and 50%, unanimous board approval or a majority shareholder vote is required; when the value exceeds 50%, a three-quarters shareholder vote is required. Due to the nature of Russian Gaap, which vary significantly from US Gaap or IAS, these thresholds are often surprisingly low, especially as the test involves a comparison of market value to book value. Moreover, the reference to the *possibility of alienation* has led many practitioners to conclude that an uncapped indemnity provision may itself constitute an MT (notwithstanding the general uncertainty as to how an indemnity would be considered under Russian law).

Separately, if an MT is approved by a shareholder vote, dissenting or abstaining shareholders have a right to put their shares to the company for a period of 45 days after the approval. The share price for the buy-back has to be set at the market price in advance of the MT approval. There is a statutory limit on how much the company can be required to pay in total, and detailed rules govern the procedures, including the involvement of an independent appraiser to determine the market value of the shares.

Given the broad scope of the definitions of IPTs and MTs, many complex international corporate and securities transactions involving Russian companies fall within one or both of these categories. A transaction classified as an IPT only needs to be approved as such, even if it is also an MT. As is often the case under Russian law, the remedies for violation of the approval requirements may be draconian: the transaction may be invalidated by a court as a result of a claim by the company or its shareholders, a situation that is obviously undesirable to investors and business partners.

These IPT and MT approval requirements, and the potentially severe remedies for a failure to comply, arose partly in response to the harm done by corporate insiders and majority shareholders to the interests of minority shareholders in Russia in the last decade. Application of these rules suggests that, while admirable in purpose, they are too broad in their scope and that their consequences were not carefully considered. For example, an agreement to which both a 20% shareholder and the company are a party (for example, an equity underwriting agreement in a combined primary and secondary offering or a share purchase agreement in an M&A transaction) constitutes an IPT, even though there may not be any representations, warranties or indemnities given by the company to its 20% shareholder. A loan

between a 100% subsidiary and its parent where the parent has a 20% shareholder (for example, to on-lend the proceeds of an international bond offering), or a guarantee by the parent of the obligations of the subsidiary, could, under a literal reading of the law, require an IPT approval, though in substance no interested person benefits disproportionately. Moreover, in the case of an MT, it is inappropriate for shareholders who object to a large but otherwise routine capital markets transaction, such as a bond issuance, to have the right to put their shares back to the company, insulating them from price declines over a considerable period.

While the rules governing IPTs and MTs are relatively recent, the private Bar has developed makeshift ways of dealing with most situations in which the special approvals might conceivably be required. However, the broad scope of the IPT and MT requirements, and the severe consequences of a failure to obtain the requisite approvals, ensures that they will continue to be significant considerations in almost any Russian corporate transaction.

## Banking

### Recommended firms

Allen & Overy Legal Services

Freshfields Bruckhaus Deringer

Linklaters

White & Case

Clifford Chance

Coudert Brothers

LeBoeuf Lamb Greene & MacRae

Baker & McKenzie

Chadbourne & Parke

CGS&H Limited Liability Company

Debevoise & Plimpton

Denton Wilde Sapte

Herbert Smith CIS Legal Services

Lovells

Norton Rose

Salans

Akin Gump Strauss Hauer & Feld

CMS Cameron McKenna

Jurinfлот International Law Office

Latham & Watkins

Skadden Arps Slate Meagher & Flom

Andrey Gorodissky & Partners

Corporate Legal Services

Gide Loyrette Nouel

Monastyrsky Zyuba Stepanov & Partners

### Allen & Overy Legal Services

Banking is Allen & Overy's key area of strength across central and eastern Europe, and Russia is no exception. The team in Moscow has grown in the last year, with two internal moves – Grant Williams has come to Moscow as senior associate from the Bangkok office and Elena Tchoubykina has returned to Russia after a training stint in London.

The firm's work in the last year has only confirmed its standing, acting as it did on Lukoil's \$750 million pre-export

finance facility arranged by ABN AMRO and Citigroup, Rual Trade's \$100 million export financing arranged by Credit Suisse First Boston International, a \$125 million facility for Severstal and a \$500 million trade finance facility for JSC Rosneft using the Lucille structure developed by A&O and ABN AMRO.

The firm is also blessed with several leading lawyers, including the head of department, Peter Timchur, Dmitry Shiryayev and Edwin Tham.

### Key contact partners

Irina Mashlenko

Edwin Tham

Peter Timchur

### Leading lawyers

Dmitry Shiryayev

Edwin Tham

Peter Timchur

### Freshfields Bruckhaus Deringer

Tobias Müller-Deku is the head of Freshfields' Russian banking practice, and wins high recommendation from Russian-based lawyers for his technical skills.

The firm's skill at syndicated lending work and its insightful advice has garnered it a superb banking reputation. The firm's past work includes deals such as advising the International Financial Corporation and the European Bank for Reconstruction and Development on their \$50 million eight-year loan to Bor Glassworks. Other clients include Standard Bank, Commerzbank and Sidanco, which it has advised on several high-profile loans and credit facilities.

### Key contact partner

Tobias Müller-Deku

### Leading lawyer

Tobias Müller-Deku

### Linklaters

Linklaters is *IFLR*'s Russian law firm of the year for 2004, and a fair amount of the work that justified that award is banking-related. The firm advised Yukos on a \$2.6 billion dual-tranche syndicated pre-export loan, arranged by CSFB, Citibank, ING, Crédit Lyonnais, Deutsche Bank, Erzbank and HBSC, to finance the merger of oil companies Yukos and Sibneft. It was the largest bank lending transaction since the Russian financial crisis of 1998, took place in a short timescale of five weeks, was governed by both English and Russian law and was secured with a Polish off-taker.

Other stand-out deals were the syndicated loan to Vneshtorg Bank, arranged by Citibank and Deutsche Bank, in December 2003 for \$382 million. It was the largest ever syndicated loan to a Russian bank.

Both Dmitry Dobatkin and Dominic Sanders are recommended by their peers as leading lawyers in the market.

#### Key contact partners

Dmitry Dobatkin  
Dominic Sanders

#### Leading lawyers

Dmitry Dobatkin  
Dominic Sanders

#### White & Case

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White & Case worked opposite Allen & Overy on Lukoil's \$750 million pre-export financing. It was increased from its launch size of \$500 million due to over-subscription, and comprised a \$450 million five-year tranche and a \$300 million seven-year tranche making it one of the largest transactions ever for a Russian borrower. It was an unusual facility for Lukoil which rarely turns to the international syndicated loan market for financing. The firm also represented Deutsche Bank in connection with a \$40 million loan to the City of St Petersburg to finance the city's budgetary expenses, and advised the Export-Import Bank of the US on a \$15.3 million export financing of the project for delivery and installation of lighting equipment in school establishments of the City of St Petersburg. The loan was extended to the City of St Petersburg by HSBC and guaranteed by the Export-Import Bank under the sub-sovereign guarantee programme.

White & Case consistently wins high-profile deals such as this, not only due to its international connections with lenders and foreign banks, but also the firm's reputation for good work. The Moscow team is led by Hugh Verrier and includes leading lawyer Marc Polonsky.

#### Key contact partner

Hugh Verrier

#### Leading lawyers

Marc Polonsky  
Hugh Verrier

#### Clifford Chance

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Clifford Chance's banking practice has suffered several departures in recent years, yet it continues to be a top-notch practice with an impressive deal list.

In the last couple of years it has advised BNPP (a regular client) on a \$300 million five-year syndicated loan to Tatneft, advised a subsidiary of oil company Lukoil on a \$150 million non-recourse loan from the International Finance Corporation to finance Lukoil's participation in Phase II of the Karachaganak oil field project in Kazakhstan, acted for a European bank on a secured loan to finance the production and export of gold and silver out of Russia, advised OPIC and CSFB on a \$225 million

project financing to a subsidiary of Lukoil to finance the construction of the Vysotsk Oil Products Terminal, and advised Société Générale as coordinating bank, together with the members of a seven-bank syndicate, on a \$1 billion secured loan to Yukos Oil Company, which was the largest Russian syndicated pre-export oil financing to date.

#### Key contact partner

Michael Cuthbert

#### Leading lawyers

Victoria Bortkevicha  
Michael Cuthbert

#### LeBoeuf Lamb Greene & MacRae

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The Moscow office of LeBoeuf Lamb Greene & MacRae is one of the oldest and largest of the international law firms in Russia. It has 36 lawyers and paralegals, a broad practice and a reputation for representing both multinational and Russian companies in large transactions. Head of the office Brian Zimble is highly recommended in several finance areas, including banking. Overall, the firm is perhaps known as a capital markets specialist rather than banking. It advises on many of Russia's large lending deals but does not quite have the share of the banking market that its competitors in the first tier have. The firm's clients include Rabobank, Société Générale, Sobinbank and the European Bank for Reconstruction and Development.

#### Key contact partner

Brian Zimble

#### Leading lawyer

Brian Zimble

#### Other notable firms

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**Baker & McKenzie** has a good reputation for banking work in Russia, particularly among local Russian banks. It has worked on some quality deals over the past year, including several issues of loan participation notes by PrivatBank (a Ukrainian commercial bank), the City of Kiev and Kyivstar GSM, a Ukrainian mobile telecommunications operator. It also advised the International Finance Corporation on a \$30 million loan to CJSC Myronivsky Khiboproduct, a leading vertically integrated poultry producer in Ukraine. **Coudert Brothers** is recommended particularly for its banking work in the energy sector and plays host to a leading lawyer in partner Derek Bloom. **Denton Wilde Sapte** is a popular choice for trade finance work.

**Herbert Smith** has arrived on the scene in Russia since the appointment of ex-Clifford Chance partner John Balsdon and his team of three associates. This is particularly true of banking work. Over the past year Herbert Smith has advised ING in connection with two loans. The first was a \$400 million syndicated loan to TNK, Russia's third largest oil company, a five-

year pre-export structured finance transaction that was one of the largest syndicated loans at that point in 2003. The second was a \$400 million export finance loan to Siberian Urals Aluminium Company (SUAL), Russia's second largest aluminium company. It also acted for BNP Paribas (Suisse) SA on the financing arrangements under a long-term multi-billion export contract of OAO Tatneft.

**Salans** has a solid reputation, based on its syndicated lending work done for the European Bank for Reconstruction and Development (EBRD) in Russia, having advised it on loans to, among others, the Ural-Siberian Bank (\$10 million), Sibacadembank (\$5 million) and KMB Bank (\$3 million), while **Latham & Watkins** works on a lot of bank financing, particularly surrounding activity in the Black Sea and involving French bank Crédit Lyonnais. **Norton Rose** has also been busy on behalf of the EBRD, advising it on a \$30 million loan to News Outdoor (Russia), a Russian media subsidiary of News Corporation Ltd, as well as acting for Citibank on a \$32 million equipment financing for Russia's major steel factory, Magnitogorsk Iron & Steel Works. The market does not see **Skadden Arps Slate Meagher & Flom** working on many banking transactions, but says the firm still delivers "a high standard of work" on the deals it does advise on.

## Capital markets

### Recommended firms

Akin Gump Strauss Hauer & Feld

CGS&H Limited Liability Company

Latham & Watkins

Linklaters

Allen & Overy Legal Services

Clifford Chance

Freshfields Bruckhaus Deringer

Skadden Arps Slate Meagher & Flom

White & Case

Baker & McKenzie

Coudert Brothers

Debevoise & Plimpton

LeBoeuf Lamb Greene & MacRae

Lovells

Monastyrsky Zyuba Stepanov & Partners

Norton Rose

## Akin Gump Strauss Hauer & Feld

Akin Gump's capital markets practice, especially equity issues for its corporate clients, carries it to the top ranking among the leading law firms in Russia. It has a leading capital markets lawyer in William Morris and has worked on some of the country's largest deals, including helping Lukoil to list on the London Stock Exchange. Other clients include Vimpelcom and Alpha/TNK. The firm advised Vimpelcom on the first initial public offering by a Russian issuer to be registered with the US Securities and Exchange Commission and on its listing of American depositary shares and convertible notes on the New York Stock Exchange.

Overall, the firm has completed more than 100 projects in Russia, including 11 public debt and equity offerings in the international capital markets.

### Key contact partner

Richard Wilkie

### Leading lawyer

William Morris

## CGS&H Limited Liability Company

Last year CGS&H LLC (the Russian operation of US firm Cleary Gottlieb Steen & Hamilton) advised Gazprom on both the largest ever corporate bond issue out of Russia and the largest ever euro-denominated corporate bond issue. On both deals it worked opposite Linklaters, who advised the underwriters. The first deal was also the largest-ever note issued out of an emerging market at \$1.75 billion and the first time gas company Gazprom had gone through the due diligence procedure necessary to meet US disclosure standards and offer the bonds to institutional investors in the US under Rule 144A. The euro-denominated medium-term note programme set up for Gazprom was innovative in its use of an orphan issuer – a subsidiary that was set up in Luxembourg to issue the bond and receive the proceeds of the bond offering, lending it in turn back to Gazprom.

These two deals were impressive for Cleary Gottlieb, which often acts as international legal advisor to the Russian government but is less known for the skill of its corporate and capital markets advice to Russian corporates. Leading lawyer Daniel Braverman, based in London, often spearheads the firm's advice to the government. The firm's head in Russia is Scott Senecal, based in Moscow.

### Key contact partners

Daniel Braverman

Scott Senecal

### Leading lawyers

Daniel Braverman

Scott Senecal

## Latham & Watkins

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Latham & Watkins makes a triumphant return to the top tier for capital markets work this year, based on the overwhelming number of respondents who told our researchers it deserves to be ranked among the best.

The firm excels in debt capital markets work. It worked on Mobile Telesystems's issue of \$400 million in 8.375% notes due 2010, having already advised the company on an issue of \$300 million in one-year notes two months earlier in August 2003. In January 2004 it followed up with a eurobond issue for JSFC Sistema – \$350 million in bonds, listed on the London Stock Exchange.

Although Latham & Watkins does not do as much work for the international banks as some of its rivals, it has an impressive share of the market for corporate advice, acting for Russian companies on most initial public offerings in the country and almost all of the issues sold to US institutional investors under Rule 144A.

### Key contact partner

Anya Goldin

### Leading lawyer

Anya Goldin

## Linklaters

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Linklaters has one of the best-respected debt capital markets teams in Russia, so although equity is still more popular among Russian companies than debt, Linklaters' strength earns it a place among the upper echelons of capital markets firms.

The firm worked opposite CGS&H LLC (Cleary Gottlieb Steen & Hamilton's Russian arm) on the two largest issues of last year – the Gazprom dollar- and euro-denominated issues that were the largest ever offerings by a Russian corporate and, the largest ever out of any emerging market. Both required heavy due diligence work but the dollar-denominated issue was particularly taxing for the lawyers as it was the first time the gas company had to comply with Rule 144A requirements in the US enabling the issue to be sold to American institutional investors.

Banking and finance lawyers Dmitry Dobatkin and Dominic Sanders are considered leading lawyers in this practice area as much as they are in banking and in project finance.

### Key contact partners

Dmitry Dobatkin  
Dominic Sanders

### Leading lawyers

Dmitry Dobatkin  
Dominic Sanders

## Allen & Overy Legal Services

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Irina Mashlenko is the head of Allen & Overy's capital markets practice, a practice that has found its niche advising banks on large, international offerings. Much of its work originates with the banking contacts it derives from its leading banking and other finance practices. As such, its clients include ING, ABN AMRO, Société Générale, MDM Bank and Dresdner Kleinwort Wasserstein and its recent deals include acting for ING Bank on a \$125 million eurobond issue by Bank Zenit and a \$150 million bond issue by the Evraz Group. It also advised Commerzbank on \$140 million in loan participation notes for the purpose of funding a loan to the Ural-Siberian Bank and acted for Deutsche Bank on a loan to Avtovaz funded through an issue of \$240 million in loan participation notes.

### Leading lawyers

Irina Mashlenko  
Peter Timchur

## Clifford Chance

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There are two partners, five associates and two trainees working on capital markets deals in Clifford Chance's Moscow office. The two partners are Michael Cuthbert and Arthur Iliev, both of whom are recommended but of which Cuthbert is the particularly well regarded in the market.

Examples of recent work include advising Evrazholding on its debut eurobond offering guaranteed by NTMK and ZapSib, advising United Heavy Industries on the listing of its shares on the London Stock Exchange and advising MDM bank on the establishment of a \$300 million programme for the issuance of loan participation notes.

Historically, the firm has worked on some of Russia's most important debt capital markets deals, including the first bond issue by a privately owned financial institution in Russia since the 1998 crisis, a eurobond issue by Alfa Bank.

### Key contact partner

Michael Cuthbert

### Leading lawyers

Michael Cuthbert  
Arthur Iliev

## Skadden Arps Slate Meagher & Flom

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Skadden's well-respected capital markets practice last year advised Magnitogorsk Steel Works on a \$300 million eurobond offering, Renaissance Capital on a \$210 million block trade of 34% of Novolipetskiy Metalurgicheskiy Kombinat, and UBS Warburg and JP Morgan on a \$250 million offering of loan participation notes issued by JP Morgan to fund a loan to Vimpelcom. It also acted for UBS Warburg alone on a \$127.2 million placement of shares representing 1.26% of the capital in the Siberian Oil Company.

Both UBS deals were registered with the Securities and Exchange Commission in the US, enabling them to be sold to the American public, unusual for issues from Russian corporates and requiring far greater due diligence on the part of Skadden.

Partners Bruce Buck and James Healy lead the team, alongside of-counsel Pranav Trivedi.

#### Key contact partners

Bruce Buck  
James Healy  
Pranav Trivedi

#### White & Case

Two partners, Sven Krogius and Alexandra Rutstein, lead the White & Case team that advises on capital markets deals out of Moscow, supported by nine associates. Krogius recently transferred from the firm's Stockholm office and is noted for his skill and knowledge of the equities market.

The firm's stand-out deal last year was advising UBS on the first investment grade eurobond issue from Russia and, at \$1 billion, the biggest ever eurobond issue from a bank in the emerging markets. The expansion of the firm's capital markets capabilities in London was also reflected in Moscow, as more work came the firm's way through its London contacts.

The firm was also engaged by UBS Investment Bank, Merrill Lynch and its long-standing client TNK on a commercial paper programme and a tap offering last year, demonstrating how the firm is developing relationships with its Russian clients. The Moscow office enjoys continued good relations with Rostelecom and Gazprom Bank, which was added to its list of clients last year.

#### Key contact partners

Sven Krogius  
Alexandra Rutstein

#### Leading lawyer

Alexandra Rutstein

#### Other notable firms

**LeBoeuf Lamb Greene & MacRae** comes highly recommended by its clients. One rates the firm as having "outstanding skills," while head Brian Zimbler is called "a highly ethical and very knowledgeable lawyer" who "is effective at solving problems" and one who charges "very reasonable fees". **Monastyrsky Zyuba Stepanov & Partners** is a good domestic firm with highly skilled lawyers. It advised Russia's national telecommunications company, Svyazinvest, on the restructuring of a subsidiary and, in particular, on the possible implications of the restructuring on Svyazinvest's American depository receipt (ADR) programme. At the time of writing Monastyrsky is advising MTU-Intel on its initial public offering;

Alexander Zyuba, Mikhail Motritch, Dmitri Lovyrev are the lawyers running this deal on behalf of the firm. **Norton Rose** has had a solid year in the capital markets arena, advising Bayerische Hypo- und Vereinsbank on a Russian annex to the Isma Global Master Repurchase Agreement 2000, advising on HSBC's custodial arrangements with a leading Russian depository, and acting for the Rothschild Group on financial services arrangements, depository structures and repo and other security structures in Russia. The firm also boasts a highly regarded private equity practice that includes among its clients German house Quadriga, Moscow retail chain Rostik Restaurants and Baring Vostok Capital Partners.

## Mergers and acquisitions

### Recommended firms

Freshfields Bruckhaus Deringer

LeBoeuf Lamb Greene & MacRae

Linklaters

White & Case

Akin Gump Strauss Hauer & Feld

Allen & Overy Legal Services

Baker & McKenzie

Clifford Chance

Coudert Brothers

CGS&H Limited Liability Company

Chadbourne & Parke

CMS Cameron McKenna

Latham & Watkins

Norton Rose

Skadden Arps Slate Meagher & Flom

Andrey Gorodissky & Partners

Debevoise & Plimpton

Herbert Smith CIS Legal Services

Monastyrsky Zyuba Stepanov & Partners

Salans

### Freshfields Bruckhaus Deringer

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One of Europe's strongholds for corporate advice, corporate clients and innovative corporate deals, Freshfields was always going to be a leader for mergers and acquisitions work in Russia. It does not solely rely on contacts or work from its UK, French and German offices, however, but has extensive relationships with domestic Russian companies, including oil company Yukos.

One of the firm's assets is head of finance Tobias Müller-Deku, who brings much of his expertise to mergers and acquisitions originated by the more narrowly focused corporate lawyers.

#### Key contact partner

Tobias Müller-Deku

#### Leading lawyer

Tobias Müller-Deku

### LeBoeuf Lamb Greene & MacRae

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LeBoeuf's most high-profile deal last year was the merger between Russian oil companies Yukos and Sibneft. LeBoeuf advised Yukos on its \$14 billion acquisition of 92% of the shares in Sibneft through a share purchase and a complex share exchange. Skadden Arps Slate Meagher & Flom represented Sibneft. It was the largest deal in Russian corporate history but has since been unwound under controversial circumstances. However, LeBoeuf continues to advise Yukos on aspects of that unwinding and other matters, and its work on this deal has projected it into the top tier of this year's *IFLR 1000*.

The firm also advised Russian beverage group Wimm Bill Dann on the proposed sale of a majority interest to Groupe Danone for \$1 billion, working opposite Freshfields, who advised Danone. The transaction was not completed, but it could have been one of the largest in Russian corporate history. LeBoeuf also advised Victory Oil, owned by trusts of the Getty family, in the sale of a majority interest in Stimul, a gas condensate-producing company in Orenburg to China National Petroleum Corporation for \$200 million.

In private equity the firm advised Citigroup Venture Capital on its investment in DI Beverages, a Russian and CIS-wide beverage company, Sun Interbrew on its acquisition of a brewery in Chuvashia, a private investment fund on its acquisition of the Borzhomi mineral water company and two Swiss investment companies on a \$50 million investment in Mosmart, a Russian hypermarket chain.

#### Key contact partner

Brian Zimpler

#### Leading lawyer

Brian Zimpler

### Linklaters

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Linklaters worked on the largest foreign investment in Russia to date last year – the purchase by BP of a stake in oil company TNK for \$20 billion. Jones Day and White & Case acted for TNK on the deal, which required multi-jurisdictional advice under English and Russian law and took the form of a combination of BP and TNK's Russian and Ukrainian oil and gas businesses into TNK-BP, a 50-50 joint venture. The deal represented about 1.5% of Russia's GDP and gave BP a 50% share in TNK. The deal required a major due diligence exercise because of TNK's complex history. The shareholders' agreement was also quite innovative and the sale and purchase agreement included sophisticated adjustment provisions.

The only criticism competitors can make of the firm is that the BP-TNK deal was Linklaters' only deal of the year. Whether or not this is the case, the size of the BP-TNK deal alone gives critics little justification to suggest that Linklaters has been slacking off.

Again, Dmitry Dobatkin and Dominic Sanders dominate the practice, on corporate advice as on banking and finance.

#### Key contact partners

Dmitry Dobatkin  
Dominic Sanders

#### Leading lawyers

Dmitry Dobatkin  
Dominic Sanders

### White & Case

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White & Case is one of the strongest firms in Russia's blossoming mergers and acquisitions market. To enhance its presence in one of the booming areas, real estate M&A, the firm appointed a new practice co-head, Hermann Schmitt, who was hired from Clifford Chance. Schmitt has extensive expertise in the real estate sector and the firm hopes that his presence in the Moscow office will bolster services to German clients and the office's links with its German practice.

The firm advised TNK on its joint venture with BP, which was the largest-ever foreign investment in Russia, opposite Linklaters. But it also worked on several other large deals, including representing long-standing client Nestlé Waters on its acquisition of Clearwater, the leader in home and office delivery of bottled water in Russia, and representing Warburg Pincus International, a UK venture fund, on the acquisition of four Russian companies holding radio licences and frequencies. The firm also represented TeliaSonera and its affiliate Fintur Holdings on its acquisition of Digital Cellular Communications.

The team is led by Eric Michailov, but it is Marc Polonsky and Igor Ostapets who are singled out by their peers as leaders for M&A advice in Russia.

**Key contact partner**

Eric Michailov

**Leading lawyers**Igor Ostapets  
Marc Polonsky**Allen & Overy Legal Services**

While Allen & Overy might not be the corporate powerhouse some of its English competitors can claim to be in Russia, the firm does advise on some important transactions. At the time of writing the firm is advising on international communications company on four acquisitions and is acting on the acquisition of a malting plant in the Ukraine. In December 2003 the firm advised Schlumberger on its purchase of PetroAlliance, a leading independent provider of oilfield services.

Edwin Tham and Peter Timchur, while not M&A specialists, are highly regarded for their knowledge of both Russian and UK law and lead a team of highly skilled lawyers.

**Key contact partners**Edwin Tham  
Peter Timchur**Clifford Chance**

The corporate partners at Clifford Chance, Marc Bartholomy and Andrei Dontsov, are supported by 14 associates and two trainees, making the team one of the largest departments in our table for mergers and acquisitions work.

This team advised Deutsche Telecom last year on the sale of a minority stake in UMC, a Ukrainian mobile services provider, and acted for Neusiedler, the pulp and paper division of Mondi Group, on the acquisition of a controlling stake in Syktyvkar Forestry Enterprise, the leading Russian pulp and paper producer. It advised Brunswick Capital on a real estate project in Moscow, acted for Siemens and AFK Sistema on all the legal aspects of the joint development of Siemens' corporate headquarters in Moscow and advised Russian Aluminium Company on a number of transactions including the construction of an Aluminium plant, the expansion of a smelter and a bid for Nalco Aluminium Smelter in India. The firm also advised Metro Group on the development of 20 sites for shopping malls together with local partner S+T and advised ENI, the Italian holding company, on two new real estate projects in Moscow.

**Key contact partners**Marc Bartholomy  
Andrei Dontsov**Baker & McKenzie**

Paul Melling heads Baker & McKenzie's mergers and acquisitions team in Moscow, which comprises four other partners and 18 associates. Baker & McKenzie in Russia is sometimes underrated by the market, but it has a strength in breadth across all practice areas, and M&A work is its forte.

The firm advised Sibir Energy last year on a joint venture with Central Fuel Company, creating Moscow Oil and Gas Company – Sibir Energy contributed its 99% stake in Yugraneft Oil Company and Central Fuel Company contributed controlling stakes in the Moscow Oil Refinery, Mosnfteprodukt and Moscow Fuel Company. It also advised Harvest Natural Resources on the sale of its interest in a Russian oil and gas joint venture and represented St Petersburg telecommunications operator PeterStar on its acquisition of another local telecommunication operator, BCL.

**Key contact partners**Max Gutbrod  
Paul Melling  
Sergei Voitishkin**Other notable firms**

Despite "losing a good lawyer in Andre Decourt" **Skadden Arps Slate Meagher & Flom** has gone from strength to strength, a performance capped by its involvement with the controversial merger between oil companies Yukos and Sibneft. After a great year, Skadden has been promoted to the third tier. **Herbert Smith** is also considered a good M&A house by the market, having worked on a large deal for ACG last year, while **Latham & Watkins** deserves its entry into the rankings on the back of its roles on the sale of the Ukrainian national mobile network and the \$370 million Systema and Deutsche Telekom takeover in Russia. Anya Goldin is the firm's resident partner. **Debevoise & Plimpton** is "highly recommended, particularly for its representation of ExxonMobil" and **Salans** is well-regarded as an all-round firm with unique experience in Russia and good, local knowledge of the legal system. And **Monastyrsky Zyuba Stepanov & Partners**, the best of the local firms, continues to lure good work away from the English and US firms with another solid year. Among other deals, the firm advised MTS on its \$70 million acquisition of Kuban GSM, the biggest regional telecommunications operator; it acted for Telia on its \$3 million acquisition of a local telecommunications operator; represented Orensot on its \$14 million purchase of Orenburg, a mobile operator; and advised Norilsk Nickel on its acquisition of the Stillwater Mining Corporation in a deal worth \$11 million.

## Project finance

### Recommended firms

Freshfields Bruckhaus Deringer

Linklaters

White & Case

Allen & Overy Legal Services

Clifford Chance

Baker & McKenzie

Chadbourne & Parke

CMS Cameron McKenna

Coudert Brothers

LeBoeuf Lamb Greene & MacRae

Akin Gump Strauss Hauer & Feld

CGS&H Limited Liability Company

Herbert Smith CIS Legal Services

Jurinfлот International Law Office

Norton Rose

Salans

### Freshfields Bruckhaus Deringer

Project finance work in Russia is limited. Most of the work done by Russian project finance lawyers is on projects abroad, in the rest of the CIS (Commonwealth of Independent States), and the work in Russia is mostly more akin to asset finance or structured finance. Freshfields has a good reputation for all these areas and so can be considered one of the best in Russia for project finance.

Its connections with commercial lenders and institutions such as the European Bank for Reconstruction and Development (EBRD) are a big help, as is highly regarded partner Jacky Baudon, who is recommended for most areas of finance work. His work on project finance includes advising the EBRD, the Overseas Private Investment Corporation (OPIC) and Jexim as lenders on the \$886 million project financing of the Sakhalin II production-sharing project.

#### Key contact partner

Jacky Baudon

#### Leading lawyer

Jacky Baudon

## Linklaters

Linklaters' biggest project deal last year was the financing and construction of a crude oil and petroleum products storage and export facility on Vysotsk Island, in the Gulf of Finland, for Lukoil. The deal, which closed on December 9 2003 and was valued at \$225 million, had a longer tenor than any other Russian corporate financing and, unlike most other international loans to Russian corporates, was not subject to export receivables-based security. In fact, the transaction was completed on pure project finance terms, with the revenue from the project intended to repay the project company's debt. Clifford Chance advised the arranger, Allen & Overy was special counsel to the Overseas Private Investment Corporation (OPIC) and Skadden Arps Slate Meagher & Flom acted as special counsel to the lender.

Linklaters also wins much work in Russia by virtue of its representation of BP. Partners Dmitry Dobatkin and Dominic Sanders are, once again, the firm's leading lawyers in this practice area.

#### Key contact partner

Dmitry Dobatkin

#### Leading lawyers

Dmitry Dobatkin

Dominic Sanders

## White & Case

White & Case, like its fellow top-tier firms Linklaters and Freshfields Bruckhaus Deringer, is involved with the \$11.2 billion Sakhalin II project in Russia. White & Case is advising the commercial bank lenders, the export credit agencies and the multilateral lenders on the deal, which is the largest project financing in Russia to date. Although some of the structural details were still confidential at the time of going to press, the deal is understood to expand the potential of project finance in Russia by including upstream, midstream and downstream components in both the oil and natural gas sectors.

White & Case's other work over the past year includes a \$300 million aircraft financing for Aeroflot, the first of its kind to be supported by European export credit agencies and which follows the model of White & Case's groundbreaking financing of Volga-Dnepr airlines. The Volga-Dnepr deal was the first to use whole aircraft as security on a deal.

Both Eric Michailov and Marc Polonsky, the latter the head of the finance department, are considered leading lawyers for project finance work in Russia.

#### Key contact partner

Marc Polonsky

#### Leading lawyers

Eric Michailov

Marc Polonsky

## Allen & Overy Legal Services

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As is evident from Allen & Overy's place in the banking table the firm is a finance specialist with a lot of experience advising on export credit facilities. As a result it is highly recommended by the arrangers it knows and works with on project financing. It would be unfair to pin all the firm's success on its connections with international banks, however, as partners Edwin Tham and Peter Timchur have a highly skilled and knowledgeable team of finance lawyers in Moscow that generates its own reputation.

Among the firm's work are a number of large project financings, including advising a syndicate of banks led by BNP Paribas, Citibank and Westdeutsche Landesbank Girozentrale on \$450 million financing for Sibneft a couple of years ago. More recently, the firm acted as special counsel to the Overseas Private Investment Corporation (OPIC) on a facility on Vysotsk Island, in the Gulf of Finland, for Lukoil. The financing had a longer tenor than any other Russian corporate financing and, unlike most other international loans to Russian corporates, was not subject to export receivables-based security. It closed on December 9 2003 and was valued at \$225 million.

### Key contact partners

Edwin Tham  
Peter Timchur

## Clifford Chance

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The sterling finance team at Clifford Chance worked on several projects last year. These included advising a subsidiary of Lukoil on a \$150 million non-recourse loan from the International Financial Corporation to finance Lukoil's participation in Phase II of development of the Karachaganak oil field in Kazakhstan. Lawyers Michael Cuthbert, Victoria Bortkevicha and Olga Grudinina worked on the deal. The firm also advised a European bank on a secured loan to finance the production and export of gold and silver out of Russia. Again, Michael Cuthbert, worked on the deal, along with Logan Wright and Olga Grudinina. Lastly it advised the Overseas Private Investment Corporation (OPIC) and Credit Suisse on a \$225 million project financing to Lukoil to finance the construction of the Vysotsk Oil Products Terminal on Vysotsk Island in the Gulf of Finland. The Clifford Chance lawyers were Eli Weber and Stephen Polakokoff and, again, Olga Grudinina and Logan Wright.

These deals demonstrate the firm's recovery since losing partner John Balsdon to Herbert Smith a few years ago. Michael Cuthbert has led the resurgence, and has become one of Russia's leading project finance lawyers in the eyes of peers and clients.

### Key contact partner

Michael Cuthbert

### Leading lawyer

Michael Cuthbert

## Other notable firms

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**Baker & McKenzie** has a solid reputation for project financing in Russia, as do fellow Americans **Chadbourne & Parke**, who undertake much work for the International Finance Corporation and the European Bank for Reconstruction and Development. The market notes that Chadbourne has "done more real project finance lending" as well as "a lot of asset financing" in recent times. **Salans** also has a good team, backed up by the range of its experience across all practice areas. The group is headed by Mathieu Fabre-Magnan, with one partner in St Petersburg and three in London.