

Updated NBU's restrictions on the currency market

On 5 March 2016, the Resolution of the National Bank of Ukraine "On stabilization of credit and currency control markets of Ukraine" No. 140 dated 3 March 2016, extending restrictions on currency market. At the same time, some provisions of the Resolution No. 140 amended several restriction measures aimed at stabilization of the situation on the currency market of Ukraine. The Resolution will be effective until 9 June 2016.

The National Bank of Ukraine (the NBU) resolved to increase the upper limit of cash, which might be issued through cash desks and ATMs, to UAH 500,000 (approx. USD 18,500) per one day per one client. The exceptions include payment of salaries, costs of business travels, social payments and payments of the guaranteed sums to the depositors by the Deposit Guarantee Fund.

The banks are still prohibited to sell foreign currency to clients (except individuals) that have funds in foreign currency on current and deposit accounts with this or other banks. However, this restriction is not applicable when the aggregate amount of client's funds in foreign currency is less than USD 25,000. Such amount does not include those funds property rights to which are under pledge; funds on the accounts with banks in temporary administration or liquidation; funds under arrest; and funds on the deposit accounts prior to 3 March 2016.

The mandatory requirement for legal entities, individual entrepreneurs and representative offices (except for official representative offices) to sell 75% of the foreign currency proceeds received from abroad has remained in force. However, the NBU cancelled the mandatory sale of foreign currency proceeds on interbank market of Ukraine:

- which were granted to a resident borrower under loan agreements involving a foreign export-import agency to fulfil its obligations under an import contract with a non-resident without these funds being credited to the resident borrower's account;
- which were received as guarantee deposit from a non-resident participant of the auction (bidding) for privatization of state property to the account of the organizer of such auction (bidding) or cash collateral in public procurement auction (bidding);
- which were received as charity aid for its recipients.

Residents are still precluded from early repayment of loans in foreign currency under loan agreements with non-residents. This restriction is also applicable to payment of interest under such agreements. The NBU refuses to register amendments to loan agreements with non-residents in relation to shortening the maturity period under such agreements or their early performance.

Requirements of the NBU concerning registration of changes to loan agreements in foreign currency between a resident-borrower and a non-resident-lender shall not apply to early repayment of loans:

- in the amount of funds attracted by the resident-borrower under the new loan

agreement with the non-resident, if such new loan agreement provides for a later term of repayment compared with the previous loan agreement, and such funds are not used by the borrower for any purposes other than early repayment under previous loan agreement and respective purchase of foreign currency;

- for the benefit of international financial organizations, wherein Ukraine is a member, or international financial organizations, in relation to which Ukraine has agreed to ensure the same legal framework as provided to the other financial organizations;
- in the amount that corresponds to the part of such loan, which is issued with the involvement of a foreign export-import agency.

The NBU has also prolonged its restrictions, inter alia, in relation to:

- purchase of foreign currency for the purposes of repatriation of dividends to foreign investors abroad;
- purchase of foreign currency for the purposes of repatriation of proceeds received by foreign investors from the sale of corporate rights, other than shares, of legal entities, decrease of the charter capital of legal entities, withdrawal from a legal entity;
- purchase of foreign currency for the purposes of repatriation of proceeds received by foreign investors from the sale of securities of Ukrainian issuers (except for sales of bonds conducted on a stock exchange);
- transfer of foreign currency abroad by individuals under current non-commercial transactions without confirming documents. The upper limit amount is UAH 15,000 (approx. USD 555) per day. This restriction is not applicable to transfer of funds received as salary payments by non-residents in Ukraine;
- sale of cash in foreign currency to one person in a bank office during one business day in the amount of over UAH 6,000 (approx. USD 220).

Cash under electronic means of payment is issued only in UAH on the territory of Ukraine.

The Resolution No. 140 also prohibits authorized banks from purchasing foreign currency under import of goods transactions, if customs clearance of such goods was completed prior to 1 January 2015, and the borrower and / or lender was substituted. Such obligations shall be fulfilled by the residents out of their own funds in foreign currency.

Pursuant to the Resolution No. 140, purchase and transfer of foreign currency is prohibited, except if they are performed on the basis of an individual licence of the NBU and the total amount of such transactions shall not exceed USD 50,000 (or the equivalent in any other currency at the official exchange rate established by the NBU at the day of transaction) per calendar month per one individual licence. In addition, provisions of the Resolution No. 140 stipulate that settlements under export and import of goods transactions, specified in Articles 1 and 2 of the Law of Ukraine "On the procedure of settlements in foreign currency", shall further continue to be carried out within 90 calendar days. The discount rate of the NBU is remained at 22%.