

Updated NBU's restrictions on the currency market

On 4 September 2015, the Resolution of the National Bank of Ukraine "On stabilization of credit and currency control markets of Ukraine" No. 581 dated 3 September 2015 came into force, extending restrictions on currency market until 4 December 2015. At the same time, some provisions of the Resolution No. 581 amended several restriction measures aimed at stabilization of the situation on the currency market of Ukraine.

Thus, the NBU cancelled the mandatory requirement of provision of the certificate on absence of tax debt from the Fiscal Service of Ukraine to a bank in case of purchase and transfer abroad of foreign currency under import transactions in the amount of over USD 50,000.

Pursuant to the adopted Resolution, the upper limit of cash issued by banks to legal entities and individual entrepreneurs per one banking day remains the same in the amount of UAH 300,000 (approx. USD 13,870). 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; and funds on the accounts with banks in temporary administration or liquidation.

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.

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.

According to the Resolution No. 581 the NBU has also resolved that changes to a loan agreement in foreign currency between the resident-borrower (except for authorized banks) and the non-resident-lender in relation to substitution of the lender and / or borrower in the obligation under this loan agreement shall not be registered. However, this prohibition shall not apply to:

- cases where substitution of the primary borrower is due to acquisition and / or liquidation;
- agreements executed between the residents and the international financial organizations, wherein Ukraine is a member, and agreements with the international financial organizations in relation to which Ukraine has agreed to ensure the same legal framework as provided to the other financial organizations.

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 was increased from UAH 15,000 per day to UAH 20,000 (approx. USD 925). 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 3,000 (approx. USD 140).

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

The Resolution No. 581 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 2014, and the borrower and/or lender was substituted. Such obligations shall be fulfilled by the residents out of their own funds in foreign currency. However, this prohibition does not apply to import transactions on purchase of essential goods (gas, oil, electricity, coal, etc.).

Pursuant to the Resolution No. 581, 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. 581 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.

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Also, it is worth mentioning that the NBU has started the gradual easement of the credit and currency policy. This is confirmed by the decrease of the discount rate from 30% to 27% as of 28 August 2015 and further reduction of the discount rate to 22% as of 24 September 2015. Change of the discount rate will affect the amount of penalties established by the parties in their respective agreements as the amount of penalties depends on the discount rate of the NBU.