

Revolutionary changes in foreign exchange regulations

The new Law of Ukraine On Currency and Exchange Transactions No. 2473-VIII of 21 June 2018 (hereinafter the "Law") entered into force on 7 July 2018 and will become applicable on 7 February 2019. The adoption of the Law is the first attempt to simplify foreign exchange rules in Ukraine, in particular to ensure the free settlement of foreign exchange transactions in Ukraine and the foreign currency free movement under these transactions between residents and non-residents.

The basic principle the provisions of the Law are based on is that everything which is not directly forbidden by law is allowed.

The key amendments to foreign exchange regulations include the following:

Abolition of individual foreign exchange licenses. Residents may transfer foreign currency to foreign accounts, invest in securities or real estate abroad, obtain foreign currency loans and carry out a number of other transactions without applying for individual foreign exchange licenses.

Simplification of the procedure for obtaining cross-border loans in foreign currency. The process of registering, changing and cancelling the registration of cross-border loans in foreign currency to be obtained by Ukrainian residents will be fully automated. Such procedures shall be initiated by an authorized bank by sending a corresponding electronic document to the National Bank of Ukraine (hereinafter the "NBU"), on the basis of which the NBU shall perform the required automated verification.

Elimination of maximum terms (180 days) established for settlements under export and import contracts.

Abolition of sanctions for failure to meet payment deadlines in the form of suspension of foreign economic activity and abolition of individual foreign exchange licenses, which used to be applied to those who failed to meet deadlines. The system of sanctions will be replaced by the imposition of fines.

Lifting of foreign exchange controls. Instead, the NBU, fiscal authorities and other competent state authorities shall exercise foreign exchange supervision over transactions over UAH 150,000 in order to ensure compliance with the requirements of foreign exchange legislation.

In general, the Law simplifies the system of foreign exchange regulation in Ukraine, while still granting broad powers to the NBU. Thus, in the event of (i) the banking system poor condition; (ii) the deterioration of the balance of payments of Ukraine; (iii) the occurrence of circumstances threatening the banking and/or financial system stability, the NBU is authorized to introduce the following temporary protective measures (for a period of up to 6 months, while the measures duration may not exceed 18 months within 2 years):

- foreign currency mandatory sale proceeds;
- setting settlement timeframes for export and import transactions;
- setting specific requirements applicable to capital movement transactions;

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- introduction of authorizations/limits for carrying out certain foreign exchange transactions;
- funds reservation under foreign exchange transactions, etc.

The Law adoption is a long-awaited and promising step forward for the businesses as amending foreign exchange regulations will make it possible to carry out foreign exchange transactions in Ukraine in accordance with the European standards and to create an opportunity window for investors.