

Turning point for the Ukrainian financial market

On July 7, 2018, the new Law of Ukraine On Currency and Currency Operations No. 2473-VIII (the "Law") has come into force and will be put into effect on February 7, 2019. The purpose of the new Law is to simplify the foreign exchange regulation in Ukraine, to ensure the freedom of capital movement and the currency regulation freedom. One of the Law's key tenets is that residents and nonresidents alike are entitled to conduct foreign exchange operations in Ukraine. The Law takes precedence over all other laws and regulations, making the law the primary and final reference point.

The main distinguishing feature of the Law is proclaiming the principle "everything that is not explicitly forbidden by law is allowed". This also reduces the limits of the National Bank of Ukraine (the NBU) intervention in the monetary system of Ukraine and what is most important, sets the freedom of foreign exchange transactions.

However, such freedom is not unlimited. Currency operations shall be carried out without restrictions, unless provided otherwise by the applicable anti money laundering laws, national security laws, applicable international treaties or protection measures introduced by the NBU. It is also possible that NBU will introduce some restrictions as the precautionary measure with the aim of stabilizing the financial situation in Ukraine.

Revolutionary changes and their impact on business

The 180-day term for making payments in foreign economic transactions shall be cancelled.

Currency transactions related to import or export of goods under UAH 150,000 (approximately EURO 5,000) shall no longer be subject to currency control. Foreign exchange supervision shall be carried out if the export-import operation exceeds the limit of - UAH 150,000 (approximately EURO 5,000).

All types of individual licenses shall be cancelled - a long-awaited change that provides enormous opportunities for investments. Ukrainian residents shall not require an individual license from the NBU in order to open accounts in foreign banks, carrying out their obligations under agreements with non-residents or purchase assets abroad.

Non-residents shall be able to open accounts in the Ukrainian banks and carry out currency operations in Ukraine, having the same rights as Ukrainian residents. It's an important step towards achieving real freedom of capital.

Elimination of special economic sanctions for violating laws on foreign economic activity that previously included (i) fines, (ii) individual licensing regime, and (iii) suspension of foreign economic activity for both resident and non-resident businesses. The valid system of sanctions shall be totally replaced with the fines.

Requirement on registration loans obtained from non-residents with the NBU shall be cancelled.

Special attention should be drawn to the legislative provision that in case of the

banking system instability, deterioration of the payments balance of Ukraine, or threat to the banking and financial systems of Ukraine, the NBU shall be able to introduce protective measures: mandatory sale of foreign currency proceeds; maximum term for settlements under export and import contracts; special permits or limits applicable to certain currency transactions, etc. These restrictions shall be temporary and last up to six months.

It is undeniable that passing the Law is an important step towards more open and investor-friendly foreign exchange market in Ukraine. But how liberal the Ukrainian foreign exchange regulation policy will actually be, the NBU relevant legislation will show in seven months from the date of the law adoption. At the same time the monetary control liberalization is in the hands of the NBU. Let's cross the fingers and trust in the future of Ukrainian liberal banking system.