

Legal News

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The National Bank of Ukraine extends previously established currency restrictions and introduces new limitations

On 3 March 2015, the Board of the National Bank of Ukraine ("NBU") adopted Resolutions No. 160 and No. 161 which took effect on 4 March 2015.

Resolution No. 160 gives further effect to a number of previously established temporary currency restrictions (in particular, by Resolution of the Board of NBU No. 758 dated 1 December 2014) and introduces certain new limitations. Resolution No. 160 will be effective until 3 June 2015, unless amended or revoked.

Resolution No. 161 amends currency control rules applicable to cross-border agreements (established by Resolution of NBU No. 124 dated 23 February 2015) on permanent basis and decreases the threshold triggering mandatory contract price validation by the state price monitoring agency ("DZI").

New currency limitations introduced by the NBU

In particular, Resolutions No. 160 and No. 161 introduce the following new limitations:

Foreign currency purchase is prohibited for legal entities and individual entrepreneurs where they have more than USD 10,000 (or equivalent) on their foreign currency accounts

- Resolution No. 160 prohibits foreign currency purchase by Ukrainian commercial banks upon their resident clients' (except for individuals') requests where such clients have more than USD 10,000 (or equivalent in other foreign currency at the official exchange rate) on their accounts in any bank, including if the purchase is required to perform their obligations in foreign currency.
- The following categories of funds on foreign currency bank accounts are not taken into account for the purposes of the above threshold:
 - ▶ pledged cash (amount of cash should be confirmed by a statement from the bank where such cash is deposited);
 - ▶ cash placed on deposit accounts prior to 4 March 2015;
 - ▶ cash deposited on accounts of a bank which is declared insolvent, or with respect to which the procedure of temporary administration is applied, or which is being liquidated.



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- In order to purchase foreign currency, resident clients (except for individuals) must additionally submit to their banks information on the general amount of foreign currency (or a statement on absence thereof) on their accounts in any banks as of the date of submission of the foreign currency purchase application.

Additional documents required to purchase or transfer foreign currency abroad in amounts exceeding USD 50,000 (or equivalent).

“Manual mode” of NBU’s control over currency transactions

- Resolution No. 160 introduces a new requirement according to which Ukrainian commercial banks must submit additional documents to the NBU, including documents underpinning the relevant transactions, where their clients intend to purchase or transfer foreign currency outside Ukraine in the amount that equals or exceeds USD 50,000 (or equivalent).
- For import transactions, for instance, a statement from the State Fiscal Service of Ukraine confirming absence of tax debt or other fiscal liabilities must be submitted.
- Also, submission of certain additional documents is required for transactions related to sale of securities in the stock market.
- The NBU may notify commercial banks on rejection of specific clients’ transactions which, in that case, may not be further processed. Approved transactions may be carried out not earlier than on the fourth banking day following submission by the commercial bank of information about such transactions to the NBU.
- The NBU may also request additional documents related to particular client transactions which, in that case, may be further processed subject to a separate approval from NBU only.

Threshold triggering the DZI assessment requirement further decreased

- Resolution No. 161 further decreases, from EUR 50,000 to EUR 25,000 (or equivalent in other foreign currency at the official exchange rate), the threshold triggering the requirement to obtain regulatory approval for foreign currency settlements under services agreements (as well as license, works and other similar agreements) with foreign vendors.

Currency restrictions extended by the NBU

The NBU extends previously effective currency restrictions according to which, in particular:

- the period for cross-border settlements may not exceed 90 calendar days;
- foreign currency proceeds in the amount of 75% are subject to mandatory sale on the interbank foreign exchange (all previously established exemptions from this requirement remain effective);
- purchase of foreign currency upon client’s requests may be carried out by banks not earlier than on the fourth banking day following the preliminary transfer of the corresponding amount in UAH to the special purpose account;
- the sale of foreign currency in hard cash to a single person within a banking day is limited to equivalent of UAH 3,000;
- individuals’ cross-border foreign currency transfers under current non-trading currency transactions were limited to: (i) equivalent of UAH 15,000 per banking day – for transactions made from a foreign currency bank account without underlying documents or transactions made without opening of a bank account, and



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(ii) equivalent of UAH 150,000 per month – for transactions made from foreign currency bank accounts with underlying documents.

With some minor alterations, Resolution No. 160 also extended previous prohibitions of the following foreign currency transactions:

- payments to foreign investors under transactions in connection with (i) sale of Ukrainian issuers' securities (except for state bonds of Ukraine sold on stock exchange markets), (ii) sale of corporate rights in legal entities other than shares, (iii) decrease of share capital of legal entities, (iv) withdrawal from commercial entities;
- cross-border payments of dividends to foreign investors;
- payments made under NBU's individual licenses, except for (i) legal entities' transfers to accounts opened abroad, (ii) cross-border transfers made by residents acting as guarantors (sureties) under loans extended by international financial organizations or with participation of foreign export credit agencies, (iii) cross-border transfers made by resident commercial as payments for admission or membership fees and are used for on-going activities of non-resident legal entities.



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