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I. REGULATORY

NBU Eases Currency Restrictions

The National Bank of Ukraine (NBU) continues gradual currency market liberalization. With its Regulation No. 718 dated 22 October 2015, the NBU cancels a number of restrictions on the currency market, specifically:

- The requirement to sell 75% of foreign currency cash receipts from abroad on the interbank foreign exchange market no longer applies to:
 - projects under agreements between Ukraine and the European Union on Ukraine's participation in EU's international programs
 - grants received by resident legal entities from international financial organizations, of which Ukraine is a member (also applies to residents which are financed with such grants and in governing bodies of which the Ukrainian government is involved)
 - cash security (margin) for a non-resident's participation in a state property privatization auction (tender) on such auction organizer's accounts
- It is now allowed to register amendments to loan agreements with respect to foreign currency loans for residents from non-residents in the following cases:
 - change of initial lender and/or borrower due to its liquidation and/or merger with the successor lender or borrower
 - loan granted with participation of export credit agency
 - early loan repayment to international financial organizations of which Ukraine is a member, or under agreements for which Ukraine undertook to provide the same legal treatment provided to other international financial organizations

- Export transactions/contracts may be released from export control if a client provides evidence of obligations settlement through setting off counter claims in telecommunications operators' transactions (international roaming and international traffic transit).

Ten Countries Excluded From Risk Country List for Transfer Pricing Purposes

With its Decree dated 16 September¹, the Ukrainian government excluded 10 countries (territories) from the list of countries, transactions of counteragents of which are subject to control under the transfer pricing law. Such countries are Switzerland, Georgia, Malta, Lebanon, UAE, Singapore, Morocco, Luxemburg, Jamaica and Guadeloupe.

Access to Property Register

Effective 6 October 2015, the Cabinet of Ministers opens access to the State Register of Interests in Real Property online and enables applicants to receive extracts on estimated monetary value of land and/or real property online. Information regarding owners can now be searched by the property address, owner's name, property registration number, or land parcel cadaster number. After [registering online](#), any individual can receive respective information with the date and time of its issuance. However, the register contains no information on interests in land and/or real property registered before 1 January 2013.

¹ Decree of the Cabinet of Ministers on Approving the List of Countries (Territories) Meeting Criteria Set Forth by Subsection 39.2.1.2, Section 39.2.1, Section 39.2, Article 39 of the Tax Code of Ukraine No. 977-p dated 16 September 2015.

Political Parties State Financing

A number of laws have been passed to provide that from 1 July 2016 Ukrainian political parties will be financed from the state budget.

Political parties that receive at least two percent of votes in the last elections of Ukraine's people's deputies will receive state financing for their statutory activities. The law also provides for partial reimbursement of expenses on election campaign.

The law sets restrictions on political parties' sources of financing, including a ban on the financing of political parties by foreign countries, foreign legal entities, foreign individuals, individuals without citizenship, and legal entities. There is also a ban on financing in any cases where the ultimate beneficiaries are foreign individuals or individuals without citizenship.

Another restriction limits the amount of an annual contribution in favor of a political party to 800 minimum wages² (UAH 1,102,400, equivalent to approximately US\$48,000) for legal entities, and 400 minimum wages (UAH 551,200 equivalent to approximately US\$24,000) for individuals.

Foreign Citizens May Be Disallowed Entry to Ukraine

The list of reasons for not allowing a foreign citizen to enter Ukraine is extended to include cases when a foreign citizen, during his/her last stay in Ukraine, failed to perform a court decision or a state body decision, or other outstanding real obligations to the state, legal entities or individuals³.

II. BANKING ACTIVITY

Ukraine's Banks Apply Economic Sanctions

Beginning 16 September 2015, personal sanctions are applied specifically to over 400 individuals and 90 legal entities (both, foreign and Ukrainian) for acts of crime against Ukraine.

The NBU provided explanatory statements⁴ to the banks as to acts that they may take with respect to transactions on the accounts of persons subject to personal sanctions.

The NBU asked the banks to check whether such persons have bank accounts and to provide information on the balance of such accounts.

The banks must now report monthly such information to the NBU and inform of any attempts to perform prohibited transactions.

Ukraine's Banks May Enter Into Swap Agreements

Beginning 27 October 2015, Ukraine's banks are allowed to sell and purchase foreign currency from/to international organizations and other banks on swap terms⁵.

A currency swap is an exchange transaction under an agreement providing for sale and purchase of foreign currency with its reverse sale and purchase on a specified date, with such terms indicated in the agreement.

Prior to this, banks were allowed to enter into swap agreements only with the NBU.

III. CORPORATE LAW

Changes in Procedure for Selling Joint Stock Company's Shares During Privatization

On 27 October 2015, changes to the procedure for selling shares during privatization were enacted to extend the term for accepting and registering share purchase requests to three days, to reduce the exchange fee to 0.1% of the purchase share value, and to set minimum and maximum exchange fee rates.

IV. LEGISLATION

Draft Law on Enforcement Proceedings

Due to the obsolete enforcement system and inconsistency of enforcement practices with global trends, there is a need in the new enforcement law. On 8 October 2015, the draft law on enforcement proceedings was approved at first reading. The draft law provides for reforms in enforcement of court decisions and other bodies, including:

- introduction of a combined enforcement system through modernization of state enforcement officers and introduction of private enforcement officers
- generation of an open uniform debtor register
- automation of enforcement procedures, etc.

The draft law is expected to enhance efficiency of authorities and officers involved in enforcement of court decisions and decisions of other bodies and to decrease the formalities in enforcement procedures.

Property Freezing and Special Confiscation for Corruption and Other Criminal Acts

On 8 October 2015, draft laws to enhance existing mechanisms to fight corruption and other criminal acts and to strengthen responsibility for them, were approved at first reading.

Such changes to the law are required to implement EU Directive No. 2014/42/EU dated 3 April 2014 on Freezing and Confiscation of Instrumentalities and Proceeds of Crime in the EU.

2 From 1 September 2015, a minimum wage is UAH 1,378. The Law of Ukraine on Amendments to Certain Ukrainian Regulations on Prevention and Fight of Political Corruption, the Law of Ukraine on Amendments to Article 87 of the Budget Code of Ukraine (financing of political parties) – have not entered into force.

3 Order of the Ministry of Interior of Ukraine on Approving Amendments to the Instructions on the Procedure for Making Decisions by the State Migration Service and its Territorial Divisions Regarding Disallowing Entry to Ukraine to Foreign Citizens and Individuals without Citizenship No. 1091 dated 9 September 2015.

4 NBU Board Regulation on Implementation and Monitoring of Efficiency of Personal, Special Economic and Other Restrictions (Sanctions) No. 654 dated 1 October 2015.

5 NBU Board Regulation on Amendments to Certain NBU Regulations No. 721 dated 23 October 2015.

Draft Law No. 2541a⁶ proposes to clarify and expand the meaning of such instruments as “special confiscation” to fight corruption.

Special confiscation is a forced and unpaid seizure of cash, valuables and other property, which was an object of crime or was used as a tool to commit a crime, in favor of the state under a court decision. Legislators propose to apply special confiscation in all crimes without exception.

To be able to actually perform special confiscation, Draft Law No. 2540a⁷ provides an amended legal mechanism to seize property if such property can be used as evidence in criminal proceedings.

Special Authority to Reveal, Search and Manage Assets Received from Corruption and Other Criminal Acts

According to a new draft law⁸, approved at first reading, the Cabinet of Ministers will create the National Agency to Reveal, Search and Manage Assets Received from Corruption and Other Criminal Acts. In addition to the above functions, the agency will cooperate with its counterparts in other countries and maintain the uniform register of assets seized in criminal proceedings.

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6 Draft Law on Amendments to the Criminal and Civil Codes of Ukraine Regarding Enhancing the Institute of Special Confiscation to Eliminate Risks in the Process of Confiscation (No. 2541a)

7 Draft Law on Amendments to the Code of Criminal Procedure Regarding Certain Issues of Seizing Property to Eliminate Corruption Risks in the Process of Seizure (No. 2540a)

8 Draft Law on the National Agency to Reveal, Search and Manage Assets Received from Corruption and Other Criminal Acts (No. 3040)

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations nor should they be considered a substitute for taking legal advice.

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