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NBU PUTS A PRESSURE ON FX TRANSACTIONS TO ADDRESS FX MARKET VOLATILITY

On 6 February 2014, in response to the outflow of capital and further considerable devaluation of Hryvnia against foreign currencies, which has been going on in leaps and bounds since late January, the Board of the National Bank of Ukraine (the "**NBU**") has issued Resolution No. 49 extending restrictions on FX transactions.[1]

LIMITATIONS ON FX TRANSACTIONS

In accordance with Resolution No. 49, the NBU has prohibited the purchase of foreign currency on the interbank currency market with the purpose of prepaying loans from non-residents, irrespective of whether such prepayment is being made voluntary or as a result of acceleration, including where loan repayments are shifted by the parties to earlier dates.[2]

Additionally, Resolution No. 49 requires legal entities and entrepreneurs to transfer money (=Hryvnia), allocated for the purchase of the currency, to the bank's special analytic book account for at least five banking days. Banks may purchase foreign currency not earlier than on the sixth day from the day when the client's funds were credited to the special analytic book account. The rationale behind is for the bank to create a special register for applications to purchase foreign currency by its clients under trade operations (export and import of the goods, services and works, repayment of loans) and to make them available for the NBU's pre-view.

It is understood that application form must be submitted before the allocation of the funds. At the same time, banks are allowed to perform transfers within the limits of the balance of account as of the opening of the business day; thus, any foreign currency transfers for a trade operation may need to be initiated at least 8 banking days in advance:

Day 0 - application and transfer of the UAH;

Day 6 - purchase of the currency;

Day 7 - transfer of the foreign currency *(see the section below for details)*.

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[1] Note: since 2012, the NBU introduced and maintained in force mandatory conversion of the half of the proceeds denominated in the foreign currency; since 2013, all transfers in the foreign currency within Ukraine has been forbidden (including salaries and personal loans).

[2] Note: When similar restrictions were imposed in 2009, the International Financial Organizations were able to obtain an exemption through opinion letter of the NBU.

Resolution no. 49 further restricts the purchase of the foreign currency for

- making outbound investments - by any Ukrainian residents;[3] and
- covering a part of insurance reserves - by resident insurance companies.

Moreover, individuals, whether residents or non-residents, can buy cashless currency for transfers abroad under non-trade transactions (other than outbound investments) only in the amount not exceeding the equivalent of UAH 50,000 per one individual during one month. It is, however, foreseen that the following payments and transfers will not be included in the cap:

- tuition and medical fees, including expenses for transportation of afflicted person;
- payments in connection with the death of a person, including transportation expenses;
- payments to be made under court judgments or decisions of enforcement authorities;
- transfers made by residents that emigrate from Ukraine to another country and thus, change their status to non-resident; and
- transfers of currency received as salary from non-residents, retirement pension or alimony.

It is also worth mentioning that Resolution No. 49 created an incentive for banks allowing zero-rate provisioning for the loans in foreign currency that were received from non-residents for the tem less than 184 calendar days. The banks, therefore, will be able to attract the bridge financing to cover gaps in liquidity, e.g. on the overnight basis.

EXEMPTION ON CURRENT ACCOUNT OVERDRAFTS

The business may spend another business day waiting for the transfer of the funds. That is, the banks will reject requests to transfer money where the business expects funds later during the day. New rule under Resolution 49 will affect, in the first turn, the payments to foreign counterparties (nominated in the foreign currency), where the bank is supposed to purchase the foreign currency, put it to the credit of the payer's account and make transfer during the same operating day. Resolution No. 49 allows banks to accept payment instructions of their clients (legal entities and entrepreneurs) only for the budget and salary or social security payments - if the planned transfers exceed the amounts standing to the credit of such accounts as at the beginning of the banking day.

[3] Note: The licences issued for the outbound investments before 7 February 2014 will most likely be insufficient to buy the foreign currency.

NBU TO SET EMERGENCY REFINANCING FOR THE BANKS RUN BY DEPOSITORS

On 6 February 2014, Board of the NBU has also adopted Resolution No. 48 “On the Mechanism for Operational Maintenance of Bank’s Liquidity” setting out special tenders for refinancing of Ukrainian banks. A bank suffering from drastic deposit outflow may resort to the NBU for refinancing for a term of up to 360 days. Interest rate on loans given by the NBU to banks is set at a triple discount rate (=19,5 % p.a.).

Eligible banks must meet the following criteria:

- sharp reduction of individuals’ deposits (outflow) and benchmarking date (the “**Determination Date**”) must correspond to an invitation for tender, which will be developed by the NBU;
- the bank must be able to collateralise treasury bonds or foreign currency (USD, GBP, CHF or JPY) to secure the amounts of refinancing;
- an aggregate amount of each drawdown of refinancing from the NBU should be equal or less than the aggregate amount of deposits withdrawn by the individuals in the relevant period (also set by the NBU). The reduction of the deposits (in absolute and relative terms) shall be calculated for the period between the Determination Date and the date of application for refinancing.
- total amount of refinancing loans from the NBU may not exceed 25% of all deposits held at the Determination Date; and
- the applicant did not have net inflow of individual deposits for two latest consecutive months (after the Determination Date).

Loans attracted by banks in accordance with Resolution No.48 are not subject to capped aggregate amount of the regular liquidity loans attracted from the NBU under the Regulation “On Regulating the Bank’s Liquidity by the National Bank of Ukraine”, approved by the NBU Board Resolution No. 259 on 10 April 2009.

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