

Law on currency and currency transactions has been published

Contacts at EY

Albert Sych

Partner

+380 (44) 499 2011

Albert.Sych@ua.ey.com

Bogdan Malnev

Senior Associate

+380 (44) 499 3356

Bogdan.Malnev@ua.ey.com

Andrii Pryimak

Senior Associate

+380 (44) 499 3380

Andrii.Pryimak@ua.ey.com

As a follow-up to EY Alert of 27 June 2018 issued by our Tax and Legal Practice, we inform you that on 6 July 2018, the Law of Ukraine "On Currency and Currency Transactions" (the "**Law**") adopted by the Parliament of Ukraine on 21 June 2018 was published in the official journal "Voice of Ukraine" ["Голос України"]. The Law takes effect starting 7 February 2019. The overview of key changes follows below.

Revocation of obsolete regulatory acts

The Law revokes several regulatory acts in the area of currency regulation and control, including:

- ▶ Decree of the Cabinet of Ministers of Ukraine "On System of Currency Regulation and Currency Control" No. 15-93 dated 19 February 1993
- ▶ Law of Ukraine "On the Procedure for Settlements in Foreign Currency" No. 185/94-BP dated 23 September 1994.

Freedom of currency transactions

The Law states that the freedom of currency transactions is the main principle of currency regulation. Taking into account the restrictions established by the Law, Ukrainian residents (individuals and legal entities) would be entitled to:

- ▶ Enter into agreements with other residents and/or non-residents and pay under these agreements in national or foreign currency
- ▶ Open accounts in foreign financial institutions
- ▶ Acquire currency valuables and assets abroad
- ▶ Transfer currency valuables across the customs border of Ukraine.

Settlements inside of Ukraine

According to the Law, all settlements within Ukraine are to be made in UAH only, except for certain types of transactions, in particular:

- ▶ Foreign investments and return to the foreign investor of profits, incomes (including dividends) and other funds obtained legally as a result of foreign investments
- ▶ Provision of banking and other financial services by banks based on banking licenses
- ▶ Provision of financial services by non-banking financial institutions / post operators licensed for currency transactions by the National Bank of Ukraine (the "**National Bank**").

Licensing of currency transactions

The Law abolishes the requirement to obtain individual and general licenses of the National Bank for currency transactions.

Banks will perform currency transactions based on banking licenses.

Non-banking financial institutions will be entitled to obtain a license of the National Bank for the following currency transactions:

- ▶ Trading in cash currency valuables
- ▶ Transfer of funds
- ▶ Settlements in foreign currency within Ukraine under life insurance contracts
- ▶ Factoring (in terms of making settlements inside of Ukraine in foreign currency between factors and clients under international factoring transactions of assignment of claim to a non-resident debtor);
- ▶ Other currency transactions determined by the National Bank.

Post operators will be entitled to obtain a license of the National Bank for the following currency transactions:

- ▶ Transfer of funds
- ▶ Trading in cash currency valuables.

Protective measures

The Law provides the National Bank with the possibility to introduce protective measures where there are signs of unstable financial condition of the banking system, deterioration of the Ukraine's balance of payments or where circumstances threatening the stability of the banking and/or financial system occur.

The National Bank will have the power to introduce the following protective measures:

- ▶ Mandatory sale of part of foreign currency proceeds
- ▶ Deadlines for settlements under export and import transactions
- ▶ Establishment of special rules for capital flow transactions
- ▶ Introduction of permits and/or limits for separate currency transactions
- ▶ Reservation of funds under currency transactions
- ▶ Banking supervision measures under Article 7-1 of the Law of Ukraine "On the National Bank of Ukraine".

Duration of each protective measure may not exceed six months with the extension limit of another six months (whereby the overall duration of protective measures may not exceed 18 months within a 24-month period).

Specifics of implementation

By 7 January 2019, the National Bank must:

- ▶ Harmonize its regulations with the Law
- ▶ Procure adoption of regulatory acts necessary for the implementation of the Law
- ▶ Introduce protective measures provided for by the Law (if there are circumstances triggering their introduction), which would become effective simultaneously with the Law.

Notably, protective measures introduced by the National Bank prior to the Law taking effect will not be subject to time limits of the Law and will stay effective until revoked by the National Bank.

We will continue monitoring the developments and may inform you of further significant changes.

EY | Assurance | Tax | Law | Transactions | Advisory

About EY

EY is a global leader in assurance, tax, law, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients.

For more information about our organization, please visit ey.com.

Contacts

Kyiv

+380 (44) 490 3000

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

© 2018 EY LEGAL SERVICES LLC
All Rights Reserved.

