

For the first time in 25 years, Ukraine has fundamentally revised its foreign exchange control rules – the old licensing system has been replaced with a new liberal model of foreign exchange regulation, aimed at facilitating free movement of capital and improving the investment climate in Ukraine

On 7 February 2019, the new Law of Ukraine "On Currency and Currency Transactions" and new currency control rules came into effect, making the long-awaited move towards liberalization of foreign exchange controls

## KEY PROVISIONS OF NEW FOREIGN EXCHANGE REGULATIONS



### Payments within Ukraine

Any payment within Ukraine must be made in Ukrainian hryvnia (UAH) only, except for certain transactions permitted in a foreign currency, which include:

- provision of banking or other financial services by Ukrainian banks
- issuance, interest payment under, or repayment of, bonds or notes denominated in a foreign currency
- sale and purchase of government securities
- foreign investments in Ukraine



### Currency control restrictions

In the event of any adverse financial or economic situation in Ukraine, the National Bank of Ukraine (NBU) may restrict certain transactions in foreign currency for a limited period of time

Effective from 7 February 2019, the NBU introduced certain restrictions that will be removed gradually, subject to a positive macro-financial situation in Ukraine (see more information on the reverse)



### Liability

Penalty of up to 100% of the amount of a foreign currency denominated transaction may be imposed for violation of foreign exchange legislation



### Payments under contracts

Residents can make or receive payments to or from non-residents (under trade and capital transactions) either in Ukrainian hryvnia or in a foreign currency



### Control of transactions

Banks will follow a new risk-based approach when monitoring foreign currency transactions – "bigger risk means more control, lower risk means less control"

To prevent any doubtful transaction that is not compliant with foreign exchange regulations, the bank will check transactions against risk "indicators"

#### List of indicators (UKR)



### Status of non-residents in Ukraine

Non-resident companies may open current accounts with banks in Ukraine for the purposes of foreign investments in Ukraine or other transactions

The law guarantees that non-residents will enjoy the same rights in respect of foreign currency denominated transactions as granted to the residents

# CURRENCY CONTROL RELAXATIONS AND CONTINUING RESTRICTIONS



## Currency control relaxations:

- banks will not control any foreign currency transaction for amount up to UAH 150,000 (or its equivalent in any other currency)
- cross-border loans are no longer subject to:
  - registration with the NBU
  - restrictions on early repayment
  - maximum interest rate cap
- residents are free to open and maintain bank accounts outside Ukraine without any restriction or limitation in respect of the amount or type of transactions
- individual NBU license requirements are abolished – instead, certain foreign currency denominated transactions will be subject to annual limits
- individual licensing regime and temporary suspension of cross-border trade are excluded from the list of available penalties that may be imposed on businesses
- foreign investors are permitted to invest in Ukraine in any second group foreign currency, such as Turkish lira or Russian rouble
- bank clients may purchase foreign currency on the same day when respective purchase request is submitted (without applying the T+1 rule)



## Continuing restrictions:

- dividend repatriation limited to EUR 7 million per month
- repatriation of investment (proceeds from sale of corporate rights or securities) limited to EUR 5 million per month
- mandatory sale of 50% (30% – starting from 1 March 2019) of foreign currency proceeds received by residents from overseas or from a non-resident company's onshore current account
- 365 days maximum period for settlements under export or import contracts
- currency control limitations on set-off under export contracts
- investments outside Ukraine or cross-border transfers from Ukraine to the same person's foreign bank account – up to the aggregate annual limit of:
  - EUR 2 million per year for legal entities
  - EUR 50,000 per year for individuals
- no foreign currency purchases for amounts exceeding UAH 150,000 (or its equivalent in any other currency):
  - using borrowed funds, or
  - if such purchases are not related to respective contract obligations
- no loans denominated in Ukrainian hryvnia from local lenders to non-resident borrowers

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## Frequently Asked Questions

### 1. Is any authorization required to make an investment outside Ukraine or a cross-border transfer from Ukraine to the same person's foreign bank account?

No license or authorization is required. Subject to providing the bank with all necessary documents, any such transaction may be made up to the aggregate annual limit.

### 2. What documents must be provided to the bank for the purpose of making an investment outside Ukraine or a cross-border transfer from Ukraine to the same person's foreign bank account?

The specific list of such documents will be determined by each bank individually. However, the minimum set of documents required by law includes (i) financial accounts or income declaration, (ii) information and documents evidencing financial capacity and origins of money, (iii) documents confirming the purpose of the transfer, and (iv) information and documents in respect of the ownership structure and ultimate beneficial owners of all parties to the respective transaction.

### 3. Is any loan agreement registered with the NBU before 7 February required to be re-registered?

No. No action is required from either a local borrower or foreign lender. All loans registered before 7 February 2019 will be automatically migrated to a new database maintained by the NBU.

### 4. Can the interest rate be increased or currency changed under any loan agreement after 7 February?

Yes. Parties are free to structure their financing agreements at their discretion, including by changing the currency of obligation or increasing the interest rate under an agreement. However, the overall cost of borrowing must be consistent with prevailing market terms.

### 5. Can a foreign bank account be used for acceptance of loan disbursements or payments under trade contracts?

Yes. Residents may use their foreign bank accounts for any business or personal purpose. No mandatory sale requirement applies to foreign currency amounts held in any such account.

### 6. What Ukrainian current account transactions are permitted to be made by a non-resident company?

A non-resident company can use its current account with a Ukrainian bank for most of its business transactions, including, without limitation, (i) payments to its Ukrainian counterparties under export, import or other contract, (ii) lending to Ukrainian borrowers, or (iii) foreign investments in Ukraine. Cross-border transfer amounts from such account are not subject to any limit.