

Ukraine fosters currency control rules for ECAs' backed cross-border loans

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The National Bank of Ukraine ("NBU") continues to implement anti-crisis measures aimed at stabilizing the situation in the money and foreign exchange market of Ukraine.

On 13 December 2016 the NBU released the next round of anti-crisis regulations.

This note gives short summary introduced by NBU recently in respect of cross-border transactions involving Ukrainian borrowers and supported by foreign export-credit agencies listed on the official web-page of Organisation for Economic Cooperation and Development, OECD ("ECAs").

In particular, in cross-border transactions of Ukrainian borrowers, that are supported by ECAs:

- Ukrainian borrowers are allowed to pay transaction-related costs (including ECAs' fees) to a foreign lender at the expense of loan funds abroad without channeling money into Ukraine, provided such foreign lender is a bank registered in a state with the credit rating of A, confirmed by either Fitch Ratings, Standard & Poor's or Moody's.
- All payments made by a Ukrainian borrower to a foreign lender in order to indemnify the latter against actual costs payable as a compensation for ECAs' services (fees, premium, commissions, etc.) will not be included into calculation of the maximum interest rate applied by the NBU to cross-border loans.
- Foreign currency funds under loans to Ukrainian borrowers by foreign bank or covered by ECAs, provided by means of payment towards foreign exporter in discharge of obligations of Ukrainian borrower under foreign economic contract (without crediting such funds to an account of the borrower in Ukraine), shall be excluded from mandatory conversion into UAH.
- Early repayment of ECAs' backed cross-border loans is allowed.
- Transfer of foreign currency under individual licenses issued by the NBU to make payments under guarantees/suretyships securing ECAs' backed cross-border loans is allowed.

We continue to monitor further developments and will keep you posted.

Sources: Regulation of NBU No. 410 dated 13 December 2016 "On regulation of the situation in the money and foreign exchange markets of Ukraine."

Regulation of NBU No. 404 dated 22 November 2016 "On Approval of Amendments to Regulation 'On Receiving Foreign Currency Loans by Residents from Non-Residents and Providing Foreign Currency Loans by Residents to Non-Residents'."

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