

## NBU RELAXES CERTAIN RESTRICTIONS ON THE UKRAINIAN FX MARKET

On 24 March 2016 the National Bank of Ukraine ("**NBU**") approved Resolution No. 192 ("**Resolution 192**"), which introduced changes to the NBU's recent Resolution No. 140 dated 3 March 2016 "*On Regulation of the Situation in the Monetary and Foreign Exchange Markets of Ukraine*".

Pursuant to Resolution 192 the NBU:

- a. allowed changing interest periods in cross-border loan agreements provided that prepayment of any interest will not occur earlier than 180 days as compared to an interest payment date on which it has otherwise been payable;
- b. permitted prepayment of cross-border loans (or a portion thereof) granted to Ukrainian borrowers under the loan agreements with the participation of foreign export credit agencies; and
- c. provided that Ukrainian banks may make payments in foreign currency to investment accounts of foreign investors opened with such Ukrainian bank subject to (a) the paying Ukrainian bank having obtained an individual license from the NBU, and (b) the moneys so transferred will be exclusively utilised by the foreign investor towards increase of such Ukrainian bank's capital. This provision is obviously intended to be applied to the foreign shareholders and creditors of Ukrainian banks that wish to convert their claims to equity.

At the same time, pursuant to NBU Regulation No. 140 the following foreign currency restrictions remain in place:

- (i) Settlements under export/import transactions are to be completed within 90 days;
- (ii) Subject to a few exemptions, mandatory sale of 75% of foreign currency proceeds obtained by Ukrainian legal entities (other than Ukrainian banks), individual entrepreneurs and representative offices of foreign companies in Ukraine;
- (iii) Prohibition on prepayment of foreign loans including any interest or other amounts payable under relevant loan agreements except loans obtained from certain IFIs and other exemptions;
- (iv) Prohibition on extension of new loans (or prolongation of existing loans) which are to be or were secured by pledges over foreign currency accounts;
- (v) Prohibition on repatriation of moneys obtained by foreign investors from sales of securities issued by Ukrainian companies (other than state treasury bonds or debt securities sold on a stock exchange), sale of corporate rights other than shares or obtained as a result of decrease of charter capital of a Ukrainian entity;
- (vi) Prohibition on payment of dividends received by foreign investors; and

- (vii) Any transactions to be performed on the basis of individual licenses issued earlier by the NBU (except the category of licenses issued for placement of funds in accounts opened with foreign banks, discharge by a surety of its obligations towards an IFI or a foreign export credit agency, other payments not exceeding USD 50,000 per month).

The above "anti-crisis" measures are in effect until 8 June 2016 unless extended by the NBU.

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