

## New Anti-Crisis Legislation Tightens Up Ukrainian Currency Control Rules

Law of Ukraine No. 1533-VI, dated 23 June 2009, "*On the Introduction of Amendments to Certain Laws of Ukraine for Overcoming the Negative Consequences of the Financial Crisis*" (the "Law") became effective on 24 November 2009. The Law introduced a number of important changes into the Ukrainian currency control regime in respect of cross-border foreign currency loans from foreign lenders to Ukrainian borrowers; the procedure for foreign investments in Ukraine; and the procedure for settlements under export-import transactions, which are briefly discussed below.

### 1. Cross-Border Foreign Currency Loans:

- The Law prohibits the early repayment by Ukrainian borrowers of their cross-border foreign currency loans.

A broad reading of the Law suggests that this prohibition may apply to the voluntary repayment of a loan by a Ukrainian borrower, as well as to the mandatory prepayment of such a loan when required by the relevant loan agreement or as a result of the acceleration by foreign lenders of the repayment obligation following an event of default.

- Ukrainian borrowers are prohibited from making amendments to loan agreements in respect of cross-border foreign currency loans in order to shorten the maturity or to allow the early repayment/prepayment of such loans. The National Bank of Ukraine (the "NBU") is temporarily prohibited from registering such amendments.

The above-specified prohibitions will be in effect until 1 January 2011.

### 2. Foreign Investments:

- Under the Law, all foreign investments in cash on the territory of Ukraine may be made by foreign investors (i) only in Ukrainian Hryvnias and (ii) only through their investments accounts with Ukrainian commercial banks. The above can be interpreted in the way that, when making foreign investment, foreign investors will have to transfer foreign currency funds into their investment accounts, convert them into Ukrainian Hryvnias, and use such Ukrainian Hryvnias for purposes of their investments in Ukraine. Before the Law became effective, for purposes of making foreign investments, foreign investors could transfer foreign currency directly from their foreign bank accounts.
- The registration of foreign investments, which was carried out by the Ukrainian local state authorities at the option of the foreign investors, has now become mandatory. The Ukrainian local state authorities will continue to register all property investments (e.g., equipment, commodities, etc.), while all investments

in, so-called, “currency values” (e.g., cash, securities, payment documents, and bank metals) will need to be registered with the NBU in accordance with the procedure to be developed by the NBU.

The above-specified rules will also be in effect until 1 January 2011.

3. Settlements under Export-Import Transactions:

- The Law shortens the period, during which the foreign currency proceeds of Ukrainian residents-exporters under export contracts must be credited to their bank accounts in Ukraine, from 180 to 90 days. The same 90-days’ period applies to the period, during which Ukrainian residents-importers must receive goods prepaid by them pursuant to an import contract.

Additional notes

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