

NBU HAS ADOPTED A NEW "ANTI-CRISIS" REGULATION

On 4 December 2008 the National Bank of Ukraine ("NBU") adopted a new regulation to substitute its famous "anti-crisis" Regulation 319 dated 11 October 2008 (as amended) ("Regulation 319"). Although the "new anti-crisis" Regulation No. 413 ("Regulation 413") restates most of the restrictions and limitations set forth in Regulation 319, certain new restrictions and new rules replace the previous restrictions and limitations.

The NBU has decreed that from 4 December 2008 every Ukrainian bank must:

- Develop plans and actions for restoring its capitalisation and liquidity
- **Take all necessary actions not to allow the premature withdrawal of term deposits, which, in other words, means that the NBU maintains its ban on the paying out of term deposits prior to their maturity date**
- Review the value of the property pledged in favour of a bank and adjust to the market price
- Direct at least 50 percent of its net profit for the year 2008 to the bank's reserve fund
- Reduce its administrative expenses by at least 10 percent

- Restrict payment of bonuses and other additional extra payments to top managers

The NBU has also decreed that if banks fail to meet the requirements mentioned above, it will take regulatory action such as putting banks into temporary administration, revocation of banks' licences and compulsory reorganisation or liquidation of such banks.

Please note, that under Regulation 413 there are no restrictions on:

- Disbursing loans in foreign currency to Ukrainian residents who do not receive any proceeds in foreign currency
- Undertaking currency exchange transactions in cash through so called "currency exchange points"

The NBU has also lifted its restrictions on the time to be taken for making transfers between accounts which had been introduced by Regulation 319.

NBU recommends Ukrainian banks to:

- Consider reduction of interest rates charged on certain loans in foreign currency
- Restrict entry into unconditional facility agreements if the bank's liquidity goes down

- Take reasonable steps towards prepayment of loans previously disbursed

Under Regulation 319, extension of the term of loans by banks was, in effect, prohibited. However, from 4 December 2008 banks are entitled, at their own risk, to extend the term of loans disbursed to domestic commodity producers. Subject to the borrower's satisfactory financial performance, the risk assessment of the borrower does not need to take into account the extension of the term of loans expiring prior to 1 October 2009.

FOREIGN CURRENCY TRANSACTIONS

The NBU has restated the existing prohibition for residents to make payments abroad in foreign currency for goods which are not actually imported into Ukraine. Moreover if any advance payment in foreign currency is returned to an account of a Ukrainian importer as a result of the non-resident's failure to fulfil its obligation under an import contract, such currency must be converted into UAH at either the exchange rate which was used for buying such currency, or at an official exchange rate of the NBU effective as of the date of making the advance payment (if an advance payment was made with borrowed foreign currency).

The NBU has also restated that banks may only purchase foreign currency for individuals at an interbank currency market for the purposes of transfer of such currency abroad for non-trade-related reasons in amounts not exceeding the equivalent of UAH75,000 per month. However the NBU has extended the list of exceptions from such restriction to include salary payments in Ukraine in favour of non-residents.

All other restrictions established by the most recent wording of Regulation 319 remain in Regulation 413.

Please do not hesitate to contact us should you have any questions on the above.

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