



# Ukraine Update

October 2016

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## I. Investment and Ownership

### Prevention of Illegal Takeovers

On 2 November 2016, the law aimed to prevent illegal takeovers in Ukraine came into force.<sup>1</sup>

The following provisions are to prevent illegal takeovers of immovable property:

- State registrars are required to immediately notify owner of immovable property once they receive a request for registration actions in relation to such immovable property.
- State registrars are required to use information from other state registers, including the Unified State Register of Court Decisions of Ukraine and the State Land Cadaster.
- Term for appeal of decisions, acts or omissions of state registrars is extended from 30 to 60 days.

To prevent illegal takeovers of companies, the law establishes a requirement for notarial certification of signatures on the following corporate documents:

- Statutory documents
- Transfer deed in case of reorganization and distribution balance sheet in case of division of a company
- Participant's application on withdrawal from the company
- Respective decision (minutes) in case of state registration of changes in the data regarding legal entity in the Unified State Register

The law also introduces criminal liability of state registrars for abuse of their authorities and misconduct.

### Creation of Investment Support Office in Ukraine

The government established the Office for Promotion and Support of Investment in Ukraine as its temporary and advisory body to attract foreign investors into Ukraine and to serve as a "single window" coordinating interaction of investors with state and local bodies in Ukraine during preparation and implementation of new investment projects.<sup>2</sup>

<sup>1</sup> Law of Ukraine on Amending Certain Legislative Acts Regarding Improvement of the State Registration of Immovable Property Rights and Protection of Ownership Rights, dated 6 October 2016 No. 1666-VIII.

<sup>2</sup> Resolution of the Cabinet of Ministers of Ukraine on Setting Up the Office for Promotion and Support of Investment in Ukraine, dated 19 October 2016 No. 740.

## II. Regulatory

### NBU Interest Discount Rate Decreased

Effective 28 October 2016, the National Bank of Ukraine (NBU) interest discount rate is decreased from 15% to 14% per annum.<sup>3</sup>

### Currency Control Regulations Amended

NBU increased liability for delayed filing, concealing and distorting reports on exchange operations from UAH 1,700 to UAH 17,000 (from approx. €60 to €600).<sup>4</sup>

### Changes to Alcoholic Beverages Wholesale

From 13 October 2016, business entities holding a license for production of alcoholic beverages (grape and/or fruit wines and/or honey beverages) are entitled to wholesale such beverages without a separate wholesale license if such beverages were made of wine materials produced exclusively by such business entities.<sup>5</sup>

## III. Real Estate

### Minimum Lease Term for Agricultural Land

On 19 October 2016, the law setting a minimum term of 10 years for lease of ameliorated agricultural land came into force.<sup>6</sup>

The lease agreements must include lessee's obligation to invest in development and modernization of melioration systems and infrastructure objects.

The law will not be applied to the land lease agreements entered into before 19 October 2016.

### Moratorium on Sale of Agricultural Land Extended Until 1 January 2018

Moratorium on sale of agricultural land is extended for one more year. Thus, agricultural land may not be sold or otherwise alienated until 1 January 2018.<sup>7</sup>

## IV. Enforcement and Debt Restructuring

### New Enforcement System Is Launched

From 5 October 2016, the laws reforming the enforcement system in Ukraine adopted by the Parliament on 2 June 2016, came into effect.<sup>8</sup>

These laws introduce a number of important changes, including:

- Introducing a combined enforcement system through modernizing state enforcement officers and introducing a system of private enforcement officers (private bailiffs) which will become operative in full from 5 January 2017.
- Extending the term when an enforcement creditor may submit documents for enforcement to three years (with some exceptions).
- Mandatory advance payment of the enforcement fee by creditors as a condition to start enforcement process (under a general rule, 2% of the recovery amount).

Certain provisions of these laws are still pending; in particular, the following ones will become effective from 5 January 2017:

- Rules regulating requirements and procedures for private enforcement officers (insurance requirements, fee structures, restrictions as to enforcement of certain enforcement documents, etc.).
- Introduction of the Unified Register of Private Enforcement Officers and Unified Register of Debtors.
- Information on registered enforcement proceedings will become publicly available on the web-site on the Ministry of Justice of Ukraine free of charge.

### Financial Restructuring Law Came Into Effect

On 19 October 2016, the Law on Financial Restructuring came into effect.<sup>9</sup>

The law provides the procedure of voluntary out-of-court financial debt restructuring of legal entities having debts to (i) Ukrainian financial institutions and/or (ii) international financial organizations/foreign financial institutions that granted loans to such legal entity.

The restructuring may be commenced only by a debtor, not by creditors, in relation to any of its debts apart from employment related debts and debts before debtor shareholders. During the restructuring process, a moratorium on fulfilment and enforcement of debtor's obligations subject to restructuring will be in effect for the restructuring period but no more than 90 days. Financial restructuring is considered finalized if the debtor and its involved creditors agree on the restructuring plan. If no plan is agreed within 90 days after commencement, the procedure terminates automatically.

<sup>3</sup> NBU Decision on Interest Discount Rate, dated 27 October 2016 No. 372-RSh.

<sup>4</sup> NBU Resolution on Amending Regulations on Currency Control, dated 18 October 2016 No. 394.

<sup>5</sup> Law of Ukraine on Amending Law of Ukraine on State Control of Production and Turnover of Alcohol, Cognac and Fruit Ethyl, Alcohol Beverages and Tobacco Products, dated 20 September 2016 No. 1534-VIII.

<sup>6</sup> Law of Ukraine on Amending Certain Legislation of Ukraine Regarding Setting the Minimum Term of Lease of Ameliorated Agricultural Land, dated 20 September 2016 No. 1532-VIII.

<sup>7</sup> Law on Amendments to Section X "The Transitional Provisions" of Land Code of Ukraine regarding Extension of Prohibition on Sale of Agricultural Land, dated 6 October 2016 No. 1669-VIII.

<sup>8</sup> Law of Ukraine on Enforcement Proceedings, dated 2 June 2016 No. 1404-VIII. Law of Ukraine on Bodies and Individuals to Enforce Court Decisions and Decisions of Other Bodies, dated 2 June 2016 No. 1403-VIII.

<sup>9</sup> Law of Ukraine on Financial Restructuring, dated 14 June 2016 No. 1414-VIII.

Financial institutions and state entities cannot act as debtors for restructuring their debts.

The law will remain effective until 19 October 2019 (save for certain amendments made by the law to the existing legislation).

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