



# Ukraine Update

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## I. Finance

### National Bank of Ukraine Continues Easing Currency Limitations

The National Bank of Ukraine (NBU) continues liberalization of limitations on export and import transactions introduced to stabilize the situation in Ukraine's monetary and currency markets.

In particular, NBU enacted new Resolution No. 51<sup>1</sup> that provides for the following major changes with respect to investments abroad:

- The maximum amount of investments abroad under one license is increased to US\$2,000,000 per calendar year; previously, the amount was limited to US\$50,000 per calendar month
- To obtain a license for investments abroad, two different procedures are introduced depending on the investment amount:
  - Simplified procedure for investments not exceeding US\$50,000 per calendar year. Applicants provide just a small number of documents (application, agreement, registration documents, and some other similar documents). Such a procedure also enables individuals to obtain e-license through their servicing banks.
  - Standard procedure for investments exceeding US\$50,000 per calendar year. Applicants provide a larger number of documents, including the ones on their financial standing, income sources for respective transactions, ultimate beneficial owners, etc.

The changes indicated above came into force on 12 June 2017.

### New Law on Consumer Credit

On 10 June 2017, the Law on Consumer Credit<sup>2</sup> came into force.

The law provides a mechanism ensuring rights and obligations of both consumers and creditors, in particular, through the following provisions:

- Creditors (banks and other financial institutions) are now required to assess consumer credit rating
- Consumer credit advertising must include accurate and clear information on the maximum amount, actual annual interest rate, maximum term and first payment amount in case of instalment purchase
- Credit advisor's role and services are defined
- Insufficient payment amounts are allocated in the following order of priority: i) overdue principal and overdue interest; ii) principal and interest; and iii) penalties and other charges
- Consumer credit may not be provided in foreign currency
- Borrowers gain the right of rescission within 14 days following execution of consumer credit agreement
- Creditors may not charge fees for early repayment
- Creditors are required to notify consumers of estimated cost of services rendered by third parties (insurance companies, appraisers, etc.)

The law applies to agreements entered into after 10 June 2017.

<sup>1</sup> NBU Resolution on Amendments to Certain Acts of the National Bank of Ukraine, dated 8 June 2017 No. 51.

<sup>2</sup> Law of Ukraine on Consumer Credit, dated 15 November 2016 No. 1734-VIII.

## II. Corporate

### Squeeze-Out/Sell-Out in Joint Stock Companies; Escrow Bank Accounts

On 4 June 2017, the legislation<sup>3</sup> introducing squeeze-out and sell-out procedures in joint stock companies and escrow bank accounts concept came into force.

**Squeeze-out Procedure** – A shareholder that acquired dominant control (over at least 95% of company shares) after the law became effective may demand that all other shareholders sell their shares to such demanding shareholder, regardless whether or not such shares are encumbered. The shareholder may send such demand within 90 days upon sending notice of acquisition of dominant control.

The law provides for a two-year transition period for shareholders, with dominant control as of 4 June 2017, to go through the squeeze-out procedure.

**Sell-out Procedure** – Minority shareholders may demand that the shareholder with dominant control acquire the unencumbered shares held by such minority shareholders.

**Mandatory Buy-out of Minority Shares** – The legislation also introduces two-tier mandatory buy-out of minority shares in public joint stock companies:

- When a shareholder gains control of 50% or more of the company shares
- When a shareholder gains control of 75% or more of the company shares

Previously, mandatory buy-out requirement existed only if the shareholder acquired 50% or more of the company shares and was not to be repeated if such shareholder increased its shareholding in the company.

**Sanctions** – In addition to the above procedures, the newly adopted legislation establishes sanctions for shareholders' failure to follow the squeeze-out, sell-out and mandatory buy-out of minority shares by restricting the number of shares of such shareholders to vote and be accounted for quorum definition.

**Rights of Private Joint Stock Companies** – Private joint stock companies will have the right not to apply the mandatory buy-out, squeeze-out and sell-out procedures if:

- For mandatory buy-out, more than three quarters of votes of shareholders present in a general meeting vote for a respective amendment to the charter
- For squeeze-out and sell-out procedures, more than 95% of votes of the entire number of shareholders vote for a respective amendment to the charter

**Threshold for Interested Party Transactions** – The new law changes the threshold for approval of interested party transactions from 100 minimal salaries to 1% of the assets value as of the last annual accounts date. Private joint stock companies may overrule the restriction for the interested shareholders to vote in relation to approval of an interested party transaction.

**Escrow Bank Accounts** – The new legislation also introduces an escrow bank account concept into Ukrainian law, which will allow placing funds in special escrow bank accounts and releasing them to a defined person when certain requirements defined by the parties in the agreement are satisfied.

## III. Regulatory

### Licensing Conditions for Household Waste Disposal

The National Commission for State Regulation of Power and Utility Industries recently adopted new licensing conditions for household waste disposal.<sup>4</sup>

A license may be obtained by legal entities disposing household waste in the cities with a population of more than 100,000 people, or operating plants with the capacity of more than 50 thousand tons or 200 thousand cubic meters of waste per year. Legal entities controlled by residents of Russia may not obtain or hold a license for domestic waste disposal.

The licensing conditions establish the timeline for companies, using landfills put into operation before 16 February 2010, to bring their activity into compliance with the new requirements, in particular, with respect to:

- Checkpoints, control-disinfection zones, boundaries and equipment – by 1 January 2018
- Drainage systems, hydro-technical utilities, redevelopment of landfill sites, etc. – by 1 January 2019
- Biogas gathering and extracting systems – by 1 January 2020

The licensing conditions will come into force on 23 August 2017, except for the provision that requires licensees to meet certain quality standards, which will come into force in three months following approval of such standards.

### Employment and Immigration Issues for Foreign Citizens Simplified

On 27 June 2017, the law<sup>5</sup> that simplifies the procedure for issuing work permits and temporary residency certificates for foreign citizens, was officially published and will come into force on 27 September 2017.

The new law provides for the following main changes regarding foreign citizens' employment and immigration procedures:

#### a. Obtaining Work Permits:

- The list of foreign citizens who may be issued work permits is expanded
- The list of documents required to obtain work permits is significantly reduced

<sup>4</sup> Resolution of the National Commission for State Regulation of Power and Utility Industries on Approval of Licensing Conditions for the Economic Activity of Household Waste Disposal, dated 4 April 2017 No. 467.

<sup>5</sup> Law of Ukraine on Amending Certain Laws of Ukraine Regarding Removal of Barriers to Attracting Foreign Investments, dated 23 May 2017 No.2058-VIII.

<sup>3</sup> Law of Ukraine on Amending Certain Legislative Acts of Ukraine Regarding Improvement of Corporate Governance in Joint Stock Companies, dated 23 March 2017 No.1983-VIII.

- Work permits are issued for a period of up to three years for certain categories of foreign employees (such as highly paid professionals, IT specialists, etc.) and for other foreign employees – maximum for one year
- The fee for obtaining work permits depends on the term for which the work permit is issued and varies from £3,200 to £9,600 (approximately from US\$123 to US\$370, respectively)
- Foreign employees may work in different positions for one or more Ukrainian legal entities if a work permit for each such position is obtained (except for highly paid professionals)

b. Obtaining Temporary Residency Certificates:

- Foreign founders/participants and/or beneficial owners of a Ukrainian legal entity whose investment into the entity's capital is at least €100,000 may obtain temporary residency certificate; the residency certificate for such foreign citizens is issued for a two-year term
- The law provides for different terms of residency certificates, depending on the grounds for their issuance; thus, for a foreign citizen who is going to be employed in Ukraine, the term of a residency certificate must be the same as the term of a work permit

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