



November 2009

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National Bank of Ukraine Introduces New Rules on Currency Exchange Transactions

On November 20, 2009 regulatory changes introduced by the National Bank of Ukraine (NBU) came into effect in an attempt to limit speculation on the foreign currency exchange market and prevent the use of Ukraine's banking system for money laundering. These changes were the result of the amendments to the NBU Regulation No. 502 dated December 12, 2002, "On Approval of Instruction on Procedure of Organization and Carrying Out Currency Exchange Transactions on the Territory of Ukraine" (NBU Regulation No. 502), [available online in Ukrainian](#). A summary of the changes is provided below.

Definition of Currency Exchange Transactions

Pursuant to NBU Regulation No. 502, the following cash transactions are considered currency exchange transactions:

- Bank purchases of foreign currency for *hryvnia* from residents and nonresident individuals
- Sale of foreign currency for *hryvnia* by a bank to resident individuals
- Reverse exchange to nonresident individuals of unused *hryvnia* for foreign currency
- Sale or purchase of travelers cheques for foreign currency or *hryvnia*
- Exchange of one foreign currency for another

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- Cashing of foreign currency banknotes and personal checks

Changes Introduced to the Procedure of Currency Exchange Transactions

Pursuant to the amended NBU Regulation No. 502:

- Banks are prohibited from selling to one person during one banking day foreign currency in an amount exceeding the equivalent of 80,000 UAH (approximately US\$10,000). The NBU believes this will help curtail the use of Ukraine's banking system for money laundering. However, some banking experts believe that this measure may complicate the lives of law-abiding citizens who need to purchase large amounts of foreign currency to service loans drawn on foreign currency. (According to the same banking experts, though, currency exchanges exceeding 80,000 UAH for loan repayment purposes occurring within one banking day are rare).
- Banks may not revise their established foreign currency exchange rate during the course of the same banking day.
- The foreign currency exchange rate should be established by the head of the bank's board of directors. The other bank managers are not allowed to establish foreign currency exchange rates.
- The NBU has the right to establish the maximum level of margin for currency exchange transactions on the cash market. At the end of last year, NBU introduced a maximum margin, which was circumvented by the banks through the use of commissions for performing currency exchange transactions. NBU soon cancelled this maximum margin limitation.
- No bank's commission is allowed for sale and purchase of foreign currency for *hryvnia*. The bank's commission fee for sale and purchase of travelers cheques, exchange of foreign currency cash, cashing of foreign currency banknotes and personal checks should be paid only in *hryvnia*.
- If a person carries out currency exchange transactions of more than 15,000 UAH (approximately US\$1,870), he or she must present to the bank an identification document (usually a passport). The person's name must be printed on the receipt issued by the bank after the completion

of the currency exchange transaction. It should be noted that this client identification requirement contradicts the Law of Ukraine "On Banks and Banking Activity" No. 2121-III dated December 7, 2000 (Banking Law). Pursuant to the Banking Law, a bank must identify the client performing cash transactions for an amount exceeding the equivalent of 50,000 UAH (approximately US\$6,250). The changes to NBU Regulation No. 502 establishing this significantly lower threshold for client identification do not comply with the rules established by the Banking Law.

- For currency exchange transactions of more than 50,000 UAH (approximately US\$6,250), in addition to the requirements established for transactions over 15,000 UAH, the bank receipt must also indicate the individual's passport details, place of residence and tax ID number (if any). Copies of the appropriate passport pages must be stored with the bank's "documents of the day."

The NBU's new rules on the limitations and additional requirements imposed on cash currency exchange transactions performed by individuals seem to be a step in the right direction, although they may require further refinement, as they still may be circumvented by those looking to take advantage of Ukraine's volatile currency exchange market.

It remains to be seen whether NBU's prohibition on revising the exchange rate during the course of the day will be effective in combating currency exchange speculations.

The contents of this update are not intended to serve as legal advice related to individual situations or as legal opinions concerning such situations. Counsel should be consulted for legal planning and advice.

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2009

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