



LAW OF UKRAINE

On Currency and Currency Operations

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No. 361-IX dated 6 December 2019,
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No. 1774-IX dated 22 September 2021,
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No. 2720-IX dated 3 November 2022,
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This Law prescribes the legal framework for currency operations, currency regulation and currency supervision, rights and obligations of the parties to currency operations and authorized institutions, and sets out liabilities for violation of currency laws by said parties.

The Purpose of this Law is to provide a uniform state policy on currency operations and ensure unrestricted currency operations in Ukraine.

Article 1. Terms and Definitions

1. The terms used in this Law shall have the following meaning:

1) Currency Operation shall mean an operation having at least one of the following features:

a) an operation associated with the transfer of title to currency valuables and (or) rights of claim and respective liabilities regarding currency valuables between residents, between non-residents, as well as between residents and non-residents, except operations between residents, if such currency valuables constitute domestic currency

b) currency valuables trade

c) cross-border transfer of currency valuables and cross-border transportation of currency valuables

2) Currency Regulation shall mean operations of the National Bank of Ukraine (NBU) and, to an extent prescribed herein, the Cabinet of Ministers of Ukraine (CMU) intended to regulate currency operations transacted by currency operations parties and authorized institutions

3) Currency Supervision shall mean a set of measures for ensuring compliance with the currency law of currency operations parties and authorized institutions

4) Currency Valuables shall mean domestic currency (hryvnia), foreign currency and investment metals

5) Foreign Currency:

a) notes of monetary unit of foreign countries in the form of banknotes, treasury notes and coins in circulation that are legal tender in their respective countries or a group of foreign countries, as well as banknotes and coins that have been withdrawn from circulation, or banknotes and coins that are to be withdrawn from circulation and exchanged for circulating ones

b) money held on accounts with banks and other financial institutions denominated in foreign monetary units and International Money Clearing Units (specifically, Special Drawing Rights) payable in foreign currency

c) electronic money denominated in foreign monetary units and (or) investment metals

6) Domestic Currency (Hryvnia):

a) notes of the monetary unit of Ukraine in the form of banknotes and coins, including circulating, commemorative and jubilee coins and other circulating forms that are legal tender in Ukraine, as well as banknotes and coins that have been withdrawn from circulation, or banknotes and coins that are to be withdrawn from circulation and exchanged for circulating ones

b) money held on accounts with banks and other financial institutions denominated in hryvnia

c) electronic money denominated in hryvnia

d) the NBU's digital currency

7) Non-bank Financial Institution shall mean a financial institution other than a bank

8) Non-residents:

a) individuals (foreign nationals, Ukrainian nationals, and stateless persons) permanently residing outside Ukraine, including those who are temporarily residing in Ukraine

b) legal entities and other business entities domiciled outside Ukraine, incorporated and operating in line with laws of a foreign country, as well as entities that have resident holders

c) foreign diplomatic, consulate, trade and other official missions, international organizations and their standalone units in Ukraine that enjoy immunity and diplomatic privileges, as well as representative offices of other organizations outside Ukraine that are not engaged in business activities as prescribed in laws of Ukraine

d) standalone units of legal entities set out in part one paragraph 9 subparagraph c of this Article domiciled outside Ukraine and engaged in business activities as prescribed in foreign laws

e) other non-resident entities according to paragraph 9 of this Article

9) Residents:

a) individuals (Ukrainian nationals, foreign nationals and stateless persons) permanently residing in Ukraine, including those who are temporarily residing outside Ukraine

b) sole proprietors registered in line with laws of Ukraine

c) legal entities and other business entities domiciled in Ukraine operating in line with laws of Ukraine

c) Ukrainian diplomatic, consulate, trade and other official missions abroad that enjoy immunity and diplomatic privileges, as well as branches and representative offices of Ukrainian businesses and organizations abroad not engaged in business activities as prescribed in law of Ukraine

d) standalone units of legal entities set out in part one paragraph 8 subparagraph b of this Article such as branches, representative offices, divisions or other unincorporated standalone units engaged in business activities on behalf of a legal entity in Ukraine

10) Currency Operations Parties shall mean residents and (or) non-residents transacting

currency operations

11) Currency Valuables Trading shall mean purchase, sale or exchange of currency valuables either in cash (investment metals with physical delivery), or in a cashless form (investment metals without physical delivery)

12) Cross-border Transportation of Currency Valuables shall mean export, shipping to the customs territory of Ukraine, import, shipping from the customs territory of Ukraine or transit through the customs territory of Ukraine of investment metals and cash

13) Cross-border Transfer of Currency Valuables shall mean transfer of certain funds to or outside Ukraine to be credited to the beneficiary's account or paid to the beneficiary in cash

14) Authorized Institutions shall mean banks, non-bank financial institutions and postal services licensed by the NBU in line herewith.

2. Investment Metals shall have the same meaning as defined in the Law of Ukraine *On Public Regulation of Mining, Refining and Using Precious Metals and Stones and Monitoring Operations Herewith*.

Goods shall have the same meaning as defined in the Law of Ukraine *On Foreign Trade*.

Professional Judgment, Financial Institution, and Financial Service shall have the same meaning as defined in the Law of Ukraine *On Financial Services and Financial Companies*.

Bank shall have the same meaning as defined in the Law of Ukraine *On Banks and Banking*.

User and Payment Account shall have the meaning ascribed to them in the Law of Ukraine *On Payment Services*.

Payment Transaction and Financial Payment Service shall have the same meaning as defined in the Law of Ukraine *On Payment Services*.

Other terms herein shall have the same meaning as defined in other laws of Ukraine regulating financial services.

Article 2. Currency Regulation Principles

1. Currency regulation in Ukraine shall be based on the following principles:

1) free currency operations, implying:

the right of resident individuals and legal entities to enter into agreements with either residents or non-residents and discharge obligations under these agreements in either domestic or foreign currency, as well as open accounts with foreign financial institutions

the right of resident individuals and legal entities to purchase currency valuables and assets abroad and transport currency valuables across the customs border of Ukraine

introduction of restrictions and protective measures only on grounds and according to procedure prescribed by laws in order to ensure stability of the financial system and equilibrium of the balance of payments of Ukraine

prevention of unlawful and unjustified intervention of the government in currency operations

2) risk-based, transparent, adequate and effective currency regulation implemented by following means:

focus on financial stability, economic and social developments

consistency of measures and respective implementation deadlines, and the extent of currency restrictions with the current scope and structure of systemic risks posed to the financial stability

justification of implementation and extension of protective measures

provisional nature of protection measures

accountability and public exposure of the NBU during implementation, extension and performance appraisal of protection measures

priority to less discriminative instruments of currency regulation over more discriminative ones and proportionality during application of such instruments

prevalence of market instruments of currency regulation over administrative ones

3) independent and market-driven currency regulation that stands for:

exchange rate flexibility

the NBU's independence in devising and implementing currency and monetary policies as prescribed by law.

Article 3. Currency Laws

1. Relations that result from currency operations, currency regulation and currency supervision shall be governed by the Constitution of Ukraine, this Law, other laws of Ukraine, as well as regulations adopted in line with this Law.

2. Issues on transacting currency operations, fundamentals of currency regulation and supervision shall only be governed by this Law. Any provision of this Law shall only be changed by introducing amendments to the Law. Any provision of this Law shall only be changed by a separate law on amendments to this Law.

3. If provisions of other laws contradict provisions of this Law, the later shall apply.

4. Laws of Ukraine and other regulations of the currency legal framework that introduce new obligations for or compromise the standing of currency operations parties shall not apply retroactively.

5. If a provision of this Law or the NBU's regulation approved as a result of this Law or provisions of other regulations of the NBU allow ambiguous (multiple) interpretation of rights and obligations of residents and non-residents as to currency operations or authorities of the currency control agencies, such provisions shall be interpreted in favor of residents and nonresidents.

Article 4. Guaranteed Freedom of Currency Operations

1. Currency operations shall be conducted without limitation except where Ukrainian national security and AML/CTF laws and laws that govern Ukraine's commitments under international agreements approved by Ukrainian parliament (Verkhovna Rada) apply, as well as except where the NBU provides remedies, as set forth in this law.

2. The freedom of currency operations is ensured by complying with the currency regulation principles established by this law.

3. Residents, taking into account the restrictions imposed by this and other Ukrainian laws, have the right to open accounts with foreign financial institutions and conduct currency operations via such accounts.

Non-residents, taking into account the restrictions imposed by this and other Ukrainian laws, have the right to open accounts with Ukrainian financial institutions and conduct currency operations via such accounts.

4. Residents have the right to purchase currency valuables abroad and to move or transfer them abroad, taking into account the restrictions imposed by this law.

5. Residents and non-residents have equal rights with regard to currency operations.

Article 5. Payments

1. The hryvnia is sole tender in Ukraine, except where paragraph 2 of this article applies, and shall be accepted unconditionally for all payments in Ukraine.

2. All payments in Ukraine shall be made in hryvnia except payments for:

1) foreign investment and paying foreign investors profits, income (including dividends) and other legitimate income from foreign investment

2) banks' operations related to the provision of banking and other financial services on the basis of banking licenses

3) operations related to the provision of financial services, as set forth in Article 9 paragraph 2 subparagraphs 1)–5) and paragraph 3 of this Law, by non-bank financial institutions and postal service providers that have the NBU's licenses for currency operations

4) operations related to the placement, payment of money income and repayment of bonds and Ukraine's treasury obligations denominated in foreign currency, if this is envisaged in the prospectus of the relevant securities

5) operations related to sale/purchase of government securities denominated in foreign currency where a bank is the initiator or recipient

6) other operations, as set forth in Ukraine's Customs Code and/or the NBU's regulations.

The operations listed in this paragraph can be settled with foreign or domestic currency or investment metals.

3. Payments of fees and commissions and other payments related to the operations specified in paragraph 2 subparagraphs 1)–6) of this article are made solely in hryvnias, apart from payment of loan or deposit interest, which can be done in domestic or foreign currency or in investment metals.

4. The NBU sets the rules for settling currency operations.

Article 6. Trade in Currency Valuables

1. Currency valuables are traded on Ukraine's and international FX markets.

2. The structure of Ukraine's FX market, the terms of trade and the rules for trading foreign currency and investment metals on Ukraine's FX market are determined by the NBU's regulations, taking into account Article 4 paragraph 54 of this Law.

3. Currency valuables are traded solely through authorized institutions that received licenses, as set forth in Article 9 of this Law.

4. Foreign currency exchange bureaus are subject to entering into the Register of Foreign Currency Exchange Bureaus maintained by the NBU pursuant to the procedure established by it. A structural unit of a postal operator and a bank's standalone unit that does not use outdoor advertising, nameboards, signboards, or other means to advertise FX cash trading outside the premises in which they are located and directly inside such premises, shall not be subject to entering into the Register of Foreign Currency Exchange Bureaus.

Trade in currency valuables in cash at foreign currency exchange bureaus that are subject to entering into the Register of Foreign Currency Exchange Bureaus but are not entered into it, is prohibited.

Article 7. Transferring Currency Valuables

1. Only authorized institutions have the right to transfer currency valuables abroad.

2. The NBU sets the rules for transferring currency valuables.

Article 8. Moving Currency Valuables across the Border

1. Any cross-border movement by private individuals of currency valuables that equal or exceed EUR 10,000 calculated at the official exchange rate set by the NBU the day the movement takes place is subject to a written declaration to the customs bodies, as set forth by the CMU.

2. When sending currency valuables across border by post, stating the value of the currency values is mandatory.

3. The NBU sets the rules for moving currency valuables across the border by parties to currency operations and authorized institutions, taking into account paragraph 1 of this Article.

Article 9. Licenses by the National Bank of Ukraine

1. Banks must obtain a banking license before providing banking and other financial service that are regarded as currency operations.

2. All currency operations by non-bank financial institutions are subject to licensing by NBU for the following operations:

- 1) trading in cash currency valuables
- 2) carrying out payment transactions
- 3) settling life insurance contracts in Ukraine with foreign currency
- 4) factoring operations (where they relate to factors and their clients settling their international factoring operations in Ukraine with foreign currency, and where debtors are non-residents)
- 5) other currency operations, as defined by the NBU.

The NBU's foreign currency license states which currency operations the non-bank financial institution that holds it is allowed to conduct.

The NBU specifies the cases in which non-bank financial institutions are not required to obtain the NBU's license for currency operations to carry out currency operations, that are related to the provision of financial services, and sets the rules for conducting such operations.

3. Postal service providers must obtain the NBU's license for foreign exchange operations prior to providing any financial payment services that are classified as currency operations and/or any financial services related to buying or selling cash currency valuables.

The NBU specifies the cases in which postal service providers are not required to obtain the NBU's license for foreign exchange operations to carry out foreign currency operations that are related to the provision of financial services, and sets the rules for conducting such operations.

4. The NBU's licenses for currency operations are perpetual.

5. The NBU sets the rules for issuing, re-issuing, suspending, renewing, and revoking licenses for currency operations.

6. The NBU keeps a register of the entities that have received licenses for currency operations, and posts information about issued licenses on its official website.

7. The NBU's failure to issue a license in good time, its refusal to issue, re-issue or renew a license, or a decision to revoke or suspend a license can be appealed against in a court of law.

Article 10. Provision of Information on Currency Operations

1. Authorized institutions shall be obliged to submit to the National Bank of Ukraine the information on the currency operations transacted by the currency operation parties through these institutions as well as on their own currency operations.

2. Resident currency operation parties shall be obliged to provide the information on their currency operations to the authorized institutions through which the currency operations are transacted.

Non-resident currency operation parties shall be obliged to provide the information on their currency operations to the authorized institutions through which the currency operations are transacted, within the area of activity of such currency operation parties within Ukraine.

3. The NBU reserves the right to collect statistical data on currency operations for the statistical purposes.

4. The NBU shall define the content, form, frequency, timeframes, way and procedure for the provision of information on currency operations in accordance with this Article and Ukraine's information exchange obligations under the international agreements that are deemed mandatory by the Verkhovna Rada of Ukraine.

5. The NBU shall cooperate with other public authorities concerning exchange of the information related to currency operations in accordance with the legislative provisions on bank secrecy.

6. The NBU shall cooperate with the authorities of entities subject to international law concerning exchange of the information related to currency operations, in particular regarding the application of provisions of Article 12 of this Law under the international agreements that are deemed mandatory by the Verkhovna Rada of Ukraine in accordance with the legislative provisions on bank secrecy.

Article 11. Currency Supervision

1. Currency supervision in Ukraine shall be effected by currency supervision authorities and currency supervision agents.

2. Currency supervision in Ukraine shall be performed by currency supervision authorities and currency supervision agents in order to verify the compliance of the currency operations with the currency legislation, taking into account the risk-based approach.

3. Pursuant to the part two of this Article, currency supervision shall be exercised by currency supervision authority and currency supervision agents without interference with the relevant currency operations and activities of entities of such operations, except for cases when currency supervision agents prevent the execution of currency operations that do not comply with the currency legislation.

4. Pursuant to this Law the currency supervision authorities are the National Bank of Ukraine and the central executive authority that operates state fiscal policy. The currency supervision authorities within the scope of their competence perform supervision over residents' and non-residents' compliance with currency laws.

5. The NBU, according to its own procedures, shall exercise currency supervision over the authorized institutions.

The National Bank of Ukraine shall have the right to use professional judgment when exercising its currency supervision function.

6. The central executive authority that operates state fiscal policy exercises currency supervision over compliance of residents (except for authorized institutions) and non-residents with the currency laws.

7. Authorized institutions are currency supervision agents, which are accountable to the National Bank of Ukraine.

The authorized institutions when conducting their currency operations, except for currency operations related to the export and import of goods for an amount that is smaller than the amount

specified in Article 20 of the Law of Ukraine *On Prevention and Counteraction to Legalizing (Laundering) the Proceeds from Crime, Terrorism Financing, and Financing the Proliferation of Weapons of Mass Destruction*, directly supervises the fulfillment of the requirements of the currency legislation by residents (other than the authorized institutions) and non-residents carrying out currency operations through these authorized institutions.

Authorized institutions shall, on a free-of-charge basis, exchange information on whether their customers' or users' accounts opened with these institutions are bank accounts or payment accounts owned by non-residents, for the purpose of supervising currency operations carried out via these authorized institutions. The NBU shall establish a procedure for authorized institutions to maintain and use the records in the register of information system accounts that ensures the collection, accumulation, storage, access, and use by authorized institutions of information on whether the accounts are bank accounts or payment accounts owned by non-residents.

The procedure for the currency supervision by currency supervision agents is established by the NBU.

8. Currency supervision agents shall have the right to require from the parties to currency operations the documents related to performance of currency operations, and the parties to currency operations shall be obliged to provide such documents at the request of currency supervision agents within the period of time defined by them.

9. The currency supervision authorities shall have the right to carry out inspections on compliance with the currency legislation by the parties to such operations, specified in paragraphs 5 and 6 of this Article, respectively. When conducting inspections on compliance with the currency legislation, currency supervision authorities shall have the right to demand from currency supervision agents and other persons who are subject to such inspections, to grant access to currency operations automation systems, confirmation documents and other information on currency operations, as well as explanations regarding the conducted currency operations, and currency supervision agents and other persons who are the subject of such inspections, shall be obliged to provide for free such an access, explanations, documents and other information.

The information on banks and (or) customers collected in the process of currency supervision shall be treated as bank secrecy.

Information about non-bank financial institutions and postal service providers, as well as their customers, which is collected when conducting currency supervision over non-bank financial institutions and postal service providers having a NBU's license for currency operations, shall be treated as restricted information.

10. If any violations of currency laws are detected, currency supervision authorities shall have the right to demand from currency supervision agents and other persons who are the subject of such inspections and committed such violations, to comply with the currency laws, and shall have the right to impose corrective measures provided by law.

11. In case a currency supervision agent detects violations of currency laws by a party to currency operation, the currency supervision agent shall prevent the execution of such operation and inform about such an operation the currency supervision authority pursuant to procedure established by the NBU.

12. Currency supervision authorities exchange information on detected violations of currency legislation received by them in the course of currency supervision in order to exercise powers in the field of currency regulation and supervision.

13. Currency supervision authorities and agents, their officials shall be obliged, as prescribed by the Ukrainian laws, to prevent the disclosure of trade secret and other information, access to which is restricted pursuant to the laws of Ukraine, they become aware of during the exercise of their powers. For the disclosure of such information, currency supervision authorities and agents, their officials

shall be held liable under the laws of Ukraine.

14. For failure to fulfil obligation defined herein, currency supervision authorities and agents, their officials shall be held liable under the legislation of Ukraine.

Article 12. Remedies

1. The NBU shall in case of any indications of an unsustainable financial standing of the banking system, worsening of the balance of payments of Ukraine, events that compromise stability of the banking system and/or of the financial system of the country, introduce the following remedy measures:

- 1) surrender requirements of a part of FX earnings in line with the NBU regulations
- 2) setting deadlines for settlements under commodity export and import operations;
- 3) setting special requirements for operations associated with capital movements;
- 4) introducing permits and/or limits on some currency operations;
- 5) provisioning against currency operations;

6) measures as required by Article 7¹ of the Law of Ukraine *On the National Bank of Ukraine* detailed in specific lists in NBU regulations.

Foreign exchange surrender requirements shall not apply to proceeds from contracts on participation in capacity allocation until the transmission system operator settle in full its obligations under every contract on transmission capacity allocation and under every relevant contract on joint transmission capacity allocation, as well as to proceeds in a form of cash deposits (credit limits) made for the purpose of participating in the auction on transmission capacity of cross-border sections.

2. The NBU Board shall have the right to introduce remedy measure for a period not exceeding six months and extend the validity period of previous remedy measure for a period not exceeding six months.

The decision of the NBU Board on the introduction of a new remedy measure, if from the date of termination of the previous similar remedy has passed less than six months, or on the extension of the validity period of each previous remedy measure for the period not exceeding six months, requires the confirmation by the NBU Council of the presence of indications and/or circumstances provided for in paragraph 1 of this Article.

If the confirmation of indications and (or) circumstances provided for in part one of this Article is required, the NBU Board shall, not later than 30 calendar days before the expiration date of the remedy measures, apply to the NBU Council with the relevant request. The NBU Council shall adopt a decision on such request within 20 calendar days from its submission.

If the NBU Council fails to adopt a decision on the presence of the indications and (or) circumstances provided for in part one of this Article within 20 calendar days from the date the NBU Board submitted the request, shall give the NBU Board the right to adopt a decision to introduce a new remedy measure or prolong the validity of the previous remedy measure for the period defined by the NBU Board but not exceeding six months.

An absolute prerequisite for the adoption by the NBU Board of decisions provided for in indent 2 of this paragraph, is the submission of the report on introduction of remedy measure(s) under part 4 of this Article.

The aggregate period of validity of remedy measures shall not exceed 18 months within 24 months starting from the first day of the introduction of the respective remedy measure.

The NBU Board shall have the right to terminate any remedy measure if the grounds for imposing such remedy measure have faded.

3. In case of imposing and/or prolonging and/or terminating remedy measures provided for in this Article, the NBU shall inform the authorities of entity under international law as required by international agreements that are deemed mandatory by the Verkhovna Rada of Ukraine.

4. Within three months from introducing, or prolonging, or termination of a remedy measure, the NBU shall be obliged to draft a report on remedy measure(s) imposed and submit it to the Verkhovna Rada Committee whose authority includes banking issues.

Report on remedy measure(s) imposed shall include in particular:

1) assessment of the scope of crisis in monetary area, assessment of signs of unsustainable financial standing of the banking system and grounds for introducing the remedy measures

2) justification of compliance of each of the remedy measures provided for by part one of this Article with the identified systemic risks and threats;

3) justification of general efficiency of the measures chosen in the form of assessment of actual effect on supporting financial stability and social and economic growth.

If the report is submitted during the introduction of the remedy measure, provided that from the day of termination of the previous similar remedy measure has passed less than six months, and/or during the extension of the validity period of the previous remedy measure, it should additionally comprise the analysis of the outcomes of the previous measure and applicability of drivers and/or circumstances and/or indications that have led to imposing the remedy measure.

The report on imposing remedy measures shall be signed by the NBU Governor (or the person replacing him/her) and presented by the NBU Governor (or the person replacing him/her), or by the NBU Deputy Governor in charge of currency regulation, to a session of the Verkhovna Rada of Ukraine Committee whose authority includes matters of banking activities.

The report on imposing remedy measure(s) is a public document that contains no information that can be construed as bank secrecy, and shall be published on the NBU's official website within one calendar month of its signing and remain there indefinitely.

5. A procedure for remedy measures (specifically, criteria for their implementation, extension, and early termination) is set out by the NBU regulations, taking into account the provisions of this Law.

Article 13. Special Terms for Setting Deadlines for Settlements under Commodity Export and Import Operations

1. The NBU shall have the right to set deadlines for settlements under commodity export and import operations.

The NBU shall have the right to set exemptions and (or) special terms for introducing this protection measure for individual goods and (or) industries on motion of the CMU.

Deadlines for settlements under commodity export and import operations shall not apply to settlements under the contracts on participation in transmission capacity allocation and to cash deposits (credit limits) made for the purpose of participating in the auction on transmission capacity of cross-border sections.

The NBU shall have the right to set minimum threshold amounts for commodity export and import operations that are subject to deadlines for settlements under commodity export and import operations under this Law.

2. If the NBU sets a deadline for settlements under resident commodity export operations, funds shall be credited on residents' accounts in Ukrainian banks within the term set out in agreements, but not later than the deadline and in the amount set out by the NBU. The debt due date is calculated starting from the date of customs clearance of exported commodities, and in case of exported works, services, intellectual property rights and (or) other intangible rights of the date

formalization (on paper or electronic media) of a certificate, invoice or another document certifying provision of the aforesaid.

3. If the NBU sets a deadline for settlements under resident commodity import operations, commodities shall be delivered within terms set out in agreements, but not later than the deadline for settlements set by the NBU of the date of the advance payment.

4. For individual commodity export and import operations deadlines set by the NBU can be extended by the central executive authority assigned to devise and implement the state policy as regards to the economic development, by issuing a statement.

The central executive authority assigned to devise and implement the state policy as regards to the economic development shall decide on issuing or denying the issue of said statement within 10 business days as of receiving the respective application. Information on the issued statement shall be released on the official web-site of the said authority on or prior to the next day following the issue of the statement.

The central executive authority assigned to devise and implement the state policy as regards to the economic development shall, within 10 business days as of issuing the statement set out in indent one of this paragraph, notify the NBU and the central executive authority assigned to implement the state fiscal policy on issuing such statement.

The procedure for issuing the statement as well as the list of documents to be filed for the statement, grounds for refusal to issue the statement or to consider documents, including the list of commodities, which respective documents filed for the statement are to be denied consideration, shall be set out by the CMU. The statement is issued free of charge.

5. Violation by residents of the settlement deadline prescribed in this article, shall result in charging interest for each day of delay of 0.3 per cent of the past due payments under the agreement (the costs of short-delivered commodities) in domestic currency (if settlements under the foreign trade agreement (contract) are made in domestic currency) or in foreign currency exchanged for domestic currency at the NBU exchange rate set on the past due date. The total amount of the interest charged shall not exceed the amount of past due payments under the agreement (the costs of short-delivered commodities).

6. If the agreement as set out in paragraphs 2 and 3 of this Article is suspended due to force majeure circumstances, the expiry of the settlement term set out in paragraph 1 of this Article and charging interest in line with paragraph 5 of this Article shall be suspended for the entire duration of force majeure circumstances and shall resume on the next day following the day of cessation of such circumstances.

Confirmation of occurrence and cessation of force majeure circumstances shall be a respective certificate issued by the authorized organization (agency) of the country of domicile of the party to the foreign trade agreement (contract) or a third country in line with terms and conditions of this agreement (contract).

7. If a debt claim is accepted to be heard in a court or an international commercial arbitration court filed by a resident against a non-resident associated with non-resident's violation of terms set out in the foreign trade agreement (contract), or admitting in proceedings of the authorized body of a respective country a document of enforcement of such debt from the non-resident borrower for the benefit of the resident by means of pre-trial enforcement, the term set out in this Article shall be suspended as of the day of the claim acceptance (admission of a respective documents in proceedings) and interest shall not be charged during this period.

If a court or an international commercial arbitration court denies the claim in part or in full in relation to the debt or refuses to start a legal proceeding in a case or denies to hear the claim in court, as well as recognizing the document on enforcement of debt from the non-resident borrower unenforceable, invalid, illegal etc. and (or) if the legal proceeding is closed (suspended) without

crediting funds to residents' accounts with Ukrainian banks under such document, the term set out in this Article shall be resumed and interest shall not be charged for each past due day including the period during which this term was suspended.

If a court or an international commercial arbitration court satisfies the claim, the interest shall only be paid that was charged of the date of accepting the claim to be heard in court.

8. The central executive authority assigned to implement the state fiscal policy shall according to the inspection findings charge interest in line with the statutory procedure to residents set out in part five of this Article.

Article 14. Types of Liability for Violation of Currency Laws

1. For violation of currency laws (except violation of deadlines under commodity export and import operations entailing liability in line with Article 13 of this Law) the following measures can be imposed:

- 1) corrective measures on banks abiding by the Law of Ukraine *On Banks and Banking*
- 2) the following corrective measures on authorized institutions:
 - a) a written warning
 - b) restriction, termination or suspension of individual currency operations
 - c) penalties
 - d) suspension or revocation (cancellation) of the license to carry out currency operations
- 3) corrective measures in the form of penalties on legal entities (except authorized institutions)
- 4) corrective measures in the form of fines prescribed in the Code of Ukraine on Administrative Offences on individuals, officials of the authorized institutions, and employees of legal entities.

2. The NBU shall have the right to impose corrective measures on authorized institutions proportionally to the committed violation as prescribed in paragraphs 1 and 2 of part one of this Article.

3. The NBU shall have the right to impose corrective measures in the form of penalties on authorized institutions (banks) of not more than 20 per cent of the owner's equity of the respective authorized institution.

4. The central executive authority assigned to implement the state fiscal policy shall have the right to impose on legal entities (except authorized institutions) corrective measures in the form of penalties of 100 per cent of the operation amount transacted in violation of currency laws.

Article 15. Procedure for Imposing Corrective Measures for Violation of Currency Laws

1. Procedure for imposing corrective measures listed in Article 14 of this Law, including penalties, shall be set:

by the NBU to be applied to authorized institutions

by the CMU to be applied to legal entities (except authorized institutions).

Procedure for imposing corrective measures on individuals, officials of the authorized institutions, and employees of legal entities is prescribed in the Code of Ukraine on Administrative Offences.

2. Corrective measures may be imposed within six months of the date of detecting the violation, but no later than three years from the date of committing the violation.

3. For each violation of currency laws only one corrective measure prescribed by law shall be imposed.

4. The decision of the NBU to impose a corrective measure in a form of a penalty is an enforcement document and shall enter into force of the date of its approval.

5. Funds from charged penalties shall be transferred to the state budget.

Article 16. Final and Transitional Provisions

1. This Law shall come into effect on the next day after publication and will be implemented in seven months as of the effective date.

2. The following documents shall be declared null and void after the implementation of this Law:

1) CMU Decree No. 15-93 *On Foreign Exchange Regulation and Control* dated 19 February 1993 (published in Vidomosti of Verkhovna Rada of Ukraine, 1993, No. 17, p. 184, as amended)

2) Law of Ukraine *On Procedure for Settlements in Foreign Currency* (published in Vidomosti of Verkhovna Rada of Ukraine, 1994, No. 40, p. 364, as amended).

3) Resolution of Verkhovna Rada of Ukraine No.187/94-BP *On Procedure for Enactment of the Law of Ukraine On Procedure for Settlements in Foreign Currency* (published in Vidomosti of Verkhovna Rada of Ukraine, 1994, No. 40, p. 365).

3. Based on the enactment of this Law, as of its implementation date in line with paragraph 4 section XV of Transitional provisions of the Constitution of Ukraine the following regulations shall cease to be effective:

1) Decree of the President of Ukraine No. 319 *On Urgent Measures on Retrieval to Ukraine of Currency Valuables Illegally Held Abroad* dated 18 June 1994, as amended

2) Decree of the President of Ukraine No. 227 *On Measures on Normalizing the Payment Procedures in the Economy of Ukraine* dated 16 March 1995, as amended

3) Decree of the President of Ukraine No. 41 *On Introducing the Strict Restriction Regime of Budget Expenditures and Other Expenses, Measures for Ensuring Revenues to the Budget and Prevention of the Financial Crisis* dated 21 January 1998, as amended

4) Decree of the President of Ukraine No. 734 *On the Procedure for Issuing Loans to Residents, Loans in Foreign Currency from Non-residents and Imposing Penalties for Violations of Currency Laws* dated 27 June 1999, as amended.

4. The following laws shall be amended:

1) Code of Administrative Offences (Vidomosti Verkhovnoi Rady USSR, 1984, Annex to No. 51, p. 1122):

a) Article 162 indent two shall be amended by replacing the words “from thirty to forty four” with “from five hundred to one thousand”

b) Article 162¹ shall read as follows:

“Article 162¹. Violation of Currency Operation Procedure

A violation of currency operation procedure

entails imposing a fine on officials of legal entities (except for authorized institutions) or individual entrepreneurs in the amount from one to three thousand non-taxable minimum household incomes.

Note. The term “authorized institutions” shall have the same meaning as defined in the Law of Ukraine *On Currency and Currency Operations*.

c) Article 162² shall be removed.

d) Article 166⁵

name shall be amended by replacing the word “banking” with “banking and currency”

shall be supplemented with part six as follows:

“A violation of currency laws entails

a fine to be imposed on officials of the authorized institutions in the amount of three thousand to four thousand non-taxable minimum household incomes.”

The note shall be supplemented with indent three, as follows:

“The term “authorized institutions” shall have the same meaning as defined in the Law of Ukraine *On Currency and Currency Operations*.”

e) Article 221 shall be amended by replacing figures «162–162³» with «162, 162¹, 162³».

f) Article 234³ part one shall be amended by replacing the word “banking” with “banking and currency”.

Article 255 part one paragraph 4:

Indent two shall be amended by replacing figures «162–162³» with «162, 162³».

The indent reading «State Tax Service agencies (Articles 51², 155¹, 162¹, 162², 163¹–163⁴, 163¹², 164, 164⁵, 164¹⁶, 166¹⁶, 166¹⁷, 177², 204³)» shall be amended by excluding figures “162²”.

2) Article 250 part two of the Economic Code of Ukraine (Vidomosti Verkhovnoi Rady Ukrainy, 2003 p., №№ 18-22, p. 144) shall be amended by replacing the words “Law of Ukraine” with “laws of Ukraine *On Currency and Currency Operations*.”

3) Law of Ukraine *On External Economic Activity* (Vidomosti Verkhovnoi Rady USSR, 1991, No. 29, page 377, as amended)

(a) Article 5

part one shall read as follows:

“All entities of foreign economic activities, regardless of ownership type and other attributes, have the equal right to conduct any types of foreign economic activities and take any actions pertaining to the conduct of said activities, including any such currency operations and foreign currency settlements with foreign economic entities as are not expressly prohibited or limited by law, including by remedy measures instituted by the NBU under the Law of Ukraine *On Currency and Currency Operations*”

part 11 shall be removed.

(b) Article 11 part 5 shall be amended by removing the words “and in case sanctions are applied under Article 37 of this Law to an entity of foreign economic activities that violated the existing rules for said activities”.

(c) Article 13 part 6 shall be amended by removing the word and number “and 37”.

d) Article 16

part 13 shall be removed

part 43 shall be amended by removing the words “under Article 37 of this Law”.

(e) Article 35 shall be amended by replacing the words and numbers “by Articles 33 and 37” with the word and number “by Article 33”.

(f) Article 37 shall be removed.

4) Law of Ukraine *On the National Bank of Ukraine* (published in Vidomosti Verkhovnoi Rady Ukrainy, 1999, No. 29, page 238, as amended) shall be amended as follows:

a) Article 1:

The definition of “currency valuables” shall be removed.

The last indent shall be added as follows:

“The term ‘currency valuables’ shall have the meaning as defined in the Law of Ukraine *On Currency and Currency Operations*”.

b) Article 7 paragraph 14 shall be amended by replacing the words “foreign exchange control over commercial banks and other financial institutions licensed by the NBU to conduct FX transactions” with the words “currency supervision over banks, non-bank financial institutions and postal service providers licensed to conduct currency operations”.

c) Article 9 part one shall be supplemented with paragraph 21 as follows:

“21) approve the presence or absence of any indications of an unsustainable financial standing of the banking system, worsening of the Balance of Payments of Ukraine, events that compromise stability of the banking system and/or of the financial system of the country in order to introduce and/or prolong and/or terminate the remedy measures in accordance with Article 12 of the Law of Ukraine *On Currency and Currency Operations*”.

d) Article 15 paragraph 1 shall be supplemented with indent 29 as follows:

“introducing the remedy measures in accordance with the Law of Ukraine *On Currency and Currency Operations*”.

e) Article 30 shall be amended by replacing the words “the laws of Ukraine on foreign economic activities and the system of foreign exchange regulation and control” with the words “currency laws”.

f) Article 44

name shall be amended by replacing the word “control” with the word “supervision”

part one shall be amended by replacing the words “the laws of Ukraine on foreign exchange regulation and control” with the words “currency laws”

part two

indent one shall be amended by replacing the word “control” with the word “supervision”

paragraph 2 shall read as follows:

“2) issue, re-issue, suspend, renew, and revoke licenses for currency operations and currency supervision in accordance with the Law of Ukraine *On Currency and Currency Operations*”

paragraphs 4–6 shall be replaced with two paragraphs as follows:

“4) introduce the remedy measures in accordance with the Law of Ukraine *On Currency and Currency Operations*

5) apply the corrective measures to banks, non-bank financial institutions and postal service providers licensed to conduct currency transactions for violation of currency laws”.

g) Article 45 shall be amended by replacing the words “the laws of Ukraine on the foreign exchange regulation” with the words “currency laws”.

h) Article 67 part one paragraph 2 shall be amended by replacing the word “control” with the word “supervision”.

5) The Law of Ukraine *On Banks and Banking* (published in “Vidomosti Verkhovnoi Rady Ukrainy,” 2001, No. 5 - 6, p. 30, as amended):

a) Article 47

part one shall be supplemented with the words “in both domestic and foreign currencies”

add part six as follows: “A bank renders the services of currency valuables trading in cash and cashless forms to legal entities and individuals with the the simultaneous transfer of currency valuables to their accounts in line with the Law of Ukraine *On Currency and Currency Operations*”

part nine shall be removed

b) Article 60 part three shall be supplemented with the words “and currency” after the words “in the process of banking”

c) Article 62

part five shall be supplemented with the words “as well as in the course of currency supervision, including in case of introduction of the remedy measures under the Law of Ukraine *On Currency and Currency Operations*”

part seven shall be amended by replacing the words “who, within the powers provided by the Law of Ukraine *On the National Bank of Ukraine*, exercise functions of banking supervision or foreign exchange control” with the words “who, within the powers provided by the law exercise functions of banking supervision or currency supervision”

d) Article 73 part one:

indent one shall be amended by replacing the word “banking” with “banking and currency”

paragraph 11¹ shall be removed

Article 16 paragraph 4 subparagraphs 6–8 became invalid.

9) Law of Ukraine *On Licensing Economic Activities* (published in Vidomosti Verkhovnoi Rady Ukrainy, 2015, No.23, page 158, as amended) shall be amended as follows:

a) Article 2 part one paragraph 1 shall read as follows:

“1) rendering financial services and other activities licensed by the NBU as required by the law”.

b) Article 7 part one paragraph 1 shall read as follows:

“1) banking, rendering financial services, and other activities licensed by the NBU as required by the law”.

5. The NBU shall be obliged to perform the following no later than 30 calendar days before the effective day hereof:

bring its regulations in compliance with this Law and ensure approval of regulations needed to implement the Law, including those covering the issues of currency operations categorization applying the provisions of the international agreements that are deemed mandatory by the Verkhovna Rada of Ukraine

if there are indications and (or) circumstances specified in Article 12 hereof, approve regulations introducing remedies as defined by this Law, which regulations shall become effective at the day this Law takes effect.

The NBU shall be obliged to publish the said regulations no later than 30 calendar days before the day this Law takes effect.

6. No later than 30 days before the day this Law takes effect, the National Commission for the State Regulation of Financial Services Markets and the National Securities and Stock Market Commission shall bring their regulations in compliance with this Law and ensure the adoption of regulations that are necessary for its implementation.

The National Commission for the State Regulation of Financial Services Markets and the National Securities and Stock Market Commission shall make public the relevant regulations no later than 30 days before the day this Law takes effect.

7. Individual and general licenses to conduct currency operations and other licenses to conduct currency operations, including licenses to organize and/or conduct operations to buy and sell currency valuables in cashless form, licenses to open accounts in foreign currency, and licenses to conduct settlements in foreign currency that are issued by the NBU before the day this Law takes effect, shall expire after this Law takes effect, except for general licenses to conduct currency operations that are issued by the NBU to non-bank financial institutions and postal service providers.

After this Law takes effect, banks shall continue to conduct currency operations based on their banking licenses.

Non-bank financial institutions and postal service providers that have general licenses to conduct currency operations that were issued before this law takes effect shall continue to conduct currency operations based on their relevant general licenses to conduct currency operations.

Upon expiry of the general license to conduct currency operations that was issued to a non-bank financial institution or a postal service provider before the day this Law takes effect (if said general license to conduct currency operations was issued for a certain term of validity), said non-bank financial institution or postal service provider, should it have the intention to conduct currency operations that are stipulated in parts 2 and 3 of Article 9 of this Law, shall have the right to apply to the NBU to acquire the license to conduct currency operations under the procedure stipulated in this Law and the NBU regulations.

After this law takes effect, the NBU shall return without consideration the application for the issuance of individual and general licenses to conduct currency operations that are stipulated in Article 5 of the CMU Decree *On the System of Foreign Exchange Regulation and Control* if said application was received by the NBU before this Law takes effect and if, as of the day this Law takes effect, the NBU has not decided whether to grant or deny said license with regard to said application.

8. Authorized institutions and currency operations parties (other than entities that submitted a one-off (special) declaration pursuant to Subsection 9⁴ Specifics of Applying a One-off (Special) Voluntary Declaration of Individuals' Assets of Section XX Transitional Provisions of the Tax Code of Ukraine, which, before the day this Law takes effect, violate the requirements of the CMU Decree *On the System of Foreign Exchange Regulation and Control*, the Presidential Decree No.734/99 *On the Settlement of the Procedure for Obtaining by Residents of Credits, Loans in Foreign Currency from Non-residents and Application of Penalties for Violation of Currency Legislation* dated 27 June 1999, and/or the NBU regulations on currency regulation and control, shall be held accountable under the laws of Ukraine that were in effect as of the day said violations took place.

The decision to take corrective measures against authorized institutions and currency operations parties shall be made by currency supervision authorities within their powers under Article 11 parts 5 and 6 of this Law and as per the procedure stipulated in the laws that are in effect on the day said decision is made.

9. It is hereby determined that the NBU regulations adopted under paragraph 5 hereof that introduce remedy measures stipulated in Article 12 part 1 of this Law and that take effect at the same time this Law takes effect shall remain valid until the NBU declares them null and void.

When making decisions with regard to the expiration of the regulations referred to in indent 1 of this part, the NBU may take into account:

(1) the recommendations of the Financial Stability Board that confirm the stabilization of the financial position of the banking system and the absence of evidence of an unsustainable financial position of the banking system or arising threats to Ukraine's banking and/or financial stability

(2) the entry into force of the Law of Ukraine *On Ukraine's International Cooperation in the Area of Taxation*, which will stipulate:

(a) taxation rules for controlled foreign companies

(b) reporting rules for groups of international companies

(c) limitations for expenses in related-party transactions

(d) taxation rules for the permanent establishment status

(e) preventing the abuse of double tax agreements

(f) dispute settlement procedures regarding the application of international conventions on the avoidance of double taxation

(g) the introduction of international standards for the automatic exchange of financial information.

10. Before the day this Law takes effect, the CMU shall:

bring their regulations in compliance with this Law

ensure the adoption of regulations that are needed for the implementation of this Law

approve the list of certain goods and/or economic sectors as per Article 13 part 1 paragraph 2 of Article 13 of this Law and submit it to the NBU

ensure that the ministries and other central government agencies bring their regulations in compliance with this Law.

11. Within six months of the day this Law takes effect, the CMU and the NBU shall draw up and submit to the Verkhovna Rada of Ukraine the Draft Law of Ukraine *On the One-Time Declaration Of Assets By Individuals and Ukraine's International Cooperation in the Area of Taxation*, which will stipulate:

(1) taxation rules for controlled foreign companies

(2) reporting rules for groups of international companies

(3) limitations for expenses in related-party transactions

(4) taxation rules for the permanent establishment status

(5) preventing the abuse of double tax agreements

(6) dispute settlement procedures regarding the application of international conventions on the avoidance of double taxation

(7) the introduction of international standards for the automatic exchange of financial information.

12. For the duration of a special legal regime of the temporary occupation specified in the Law of Ukraine *On the Provision of Rights and Freedoms of Citizens and Legal Regime of the Temporarily Occupied Territory of Ukraine*, the NBU shall have the right to establish a procedure for cross-border transfers of cash currency of the occupying state and/or a procedure for carrying out transactions with cash currency of the occupying state in Ukraine.

13. The liability set in Article 13 part 5 hereof shall not apply to the resident business entities that have committed a respective offence, if import operations cannot be completed subject to CMU Resolution No. 426 *On Applying a Ban on Importing Goods from the Russian Federation* dated 9 April 2022.

14. *Paragraph 14 was removed.*

15. Temporarily, for the period of validity of the export control regime introduced by the Cabinet of Ministers of Ukraine in accordance with Article 19² of the Law of Ukraine *On Foreign*

Economic Activity, the following actions on export operations for certain types of goods specified in Article 19² of the Law of Ukraine *On Foreign Economic Activity* are prohibited:

offsetting

using accounts of residents opened abroad to receive money from non-residents

using other forms of monetary settlements with a non-resident that do not involve the movement of foreign currency funds from abroad to the accounts of residents in Ukraine.

The Cabinet of Ministers of Ukraine shall have the right to establish exceptions and/or specifics of such a ban for certain types of goods.

President of Ukraine

PETRO POROSHENKO

Kyiv

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