On 27 February 2014 the National Bank of Ukraine (the "NBU") issued Regulation No. 104 (the "Amendments"), amending the existing NBU Regulation No. 49 dated 06 February 2014 ("Regulation No. 49"). You may find our analysis of Regulation No. 49 by the respective law-now article.

Although, the Amendments impose the new restrictions and extend the already existing and established by Regulation No. 49, they seem to be reasonable under current circumstances and aimed at stabilization of the situation at the interbank foreign currency exchange market of Ukraine by way of limitation in foreign currency cash outflow.

According to the Amendments, the NBU clarifies significant restrictions set out in Regulation No. 49 and provides for new ones:

1. The NBU clarifies that the restriction on a borrower – resident buying foreign currency for early prepayment under a cross-border loan agreement applies not only to the principal amount that is owed to a lender – non-resident, but also to any other payments under a cross-border loan. At the same time, the Amendments state that a borrower – resident may make any such prepayments from its own foreign currency funds, i.e. not purchased or borrowed.

2. The "six day rule" provided for by Regulation No. 49, according to which in order to buy foreign currency, legal entities and private entrepreneurs are required to credit the relevant amount in UAH to the bank's nominated internal (analytic) account and then the bank buys foreign currency in only 6 business days after this transfer, does not apply to payments of interest under loan agreements in foreign currency.

3. The NBU cancels the limitation according to which all cash payment instructions, in any currency, from a customer (either a legal entity or private entrepreneur) shall be performed by the banks only on the basis of the balance of a customer's account as of the beginning of a business day.

4. The Amendments introduce new restrictions on the withdrawal of funds from current and deposit accounts in foreign currency. Customers can only withdraw foreign currency funds from their current and deposit accounts in the amount that does not exceed the equivalent of 15,000.00 UAH per day for one customer at the official exchange rate of the NBU. However, Ukrainian banks shall service non-cash payments in foreign currency without any restrictions.

5. Although, the Amendments do not establish a moratorium on the withdrawal of deposits (both in the national and foreign currencies), taking into consideration the 15,000.00 UAH limit, a customer will not be able to withdraw the entire amount of the foreign currency deposit immediately, if it exceeds equivalent of 15,000.00 UAH. The Amendments provide two options in this case: (i) a customer may withdraw the entire foreign currency deposit (irrespective of its amount), provided, however, that it is paid back in UAH at the foreign currency sale rate of the respective servicing bank; or (ii) a customer may partly withdraw the deposit, i.e. equivalent of 15,000.00 UAH each day.
6. The NBU is now authorised to restrict a bank’s activities if the NBU believes that such bank’s activities are aimed at the destabilization of the interbank foreign currency exchange market of Ukraine. The NBU’s decision regarding such restriction may be effective from one day up to one month.

The Amendments became effective on 28 February 2014. The Amendments seem to be aimed at stabilization of the situation at the interbank foreign currency exchange market of Ukraine by way of limitation in foreign currency cash outflow.

**Legislation:** Regulation of the National Bank of Ukraine “On the Amendments to Regulation of the National Bank of Ukraine No.49 dated 06 February 2014” No. 104 dated 27 February 2014.

**For further information, please contact:**

Victoria Kaplan  
Ukraine  
+380 44 391 33 77

Tetiana Mykhailenko  
Ukraine  
+38 044 391 33 77