On September 22, 2014 the National Bank of Ukraine ("NBU") introduced a new Regulation No. 591 ("Regulation") officially aiming at reducing the rush around foreign cash in Ukraine. However, this Regulation impacts drastically all international business, as well as individuals operating or using foreign currency. It is hoped that most of the Regulation’s provisions that might be seen as violating the investor’s rights, will be revised in the near future. Below, we provide a brief overview of the major changes introduced by the Regulation, as well as short conclusions based on the analysis of the said changes.

Please note, that the Regulation becomes effective on September 23, 2014.

Summary

- The Regulation prohibits (in full) such foreign cash transactions as:
  - Settlement of import transactions that do not involve entry of merchandise to Ukraine;
  - Payment against import contracts under which the supply of produces was executed more than 180 days prior;
  - Repayment abroad of cash received by foreign investors as proceeds from the sale of securities issued by Ukrainian emitters (excluding government bonds) or corporate rights in Ukrainian entities;
  - Payment of dividends to the investor abroad (except of dividends received from traded securities);
  - Payments by right of individual licences (except of individual licences issued by NBU to legal entities for purposes of foreign cash placement on foreign accounts);
- Mandatory conversion of foreign currency transferred to Ukraine from abroad is decreased from 100% to 75% of the amount credited to account of individual/entity; and

- The Regulation limits the amount of foreign cash that can be exchanged (purchased or sold) by one individual/entity during one business day to one banking institution to the equivalent of 3000 UAH (approx. 200 USD). This limit can be exceeded only in operations involving foreign cash exchange (purchase and selling) for repayment of personal loans to Ukrainian banks by individuals.

At the same time the Regulation restores the obligation of banks to dispense receipts on foreign cash to clients in foreign currency (and not convert it to UAH as previously established).

Conclusions

The above novelties suggest that it is necessary for business companies to revise terms of their supply contracts, as well as any agreements regarding corporate restructuring or sale of business in Ukraine, should such have been planned in the nearest future.
Any and all contracts or transactions that need to receive NBU approval and that contradict the Regulation, will be declined approval and cannot be executed. Any bank transactions that contradict the Regulation cannot be carried out by the respective banking institution.

Our client alerts are for general informational purposes and should not be regarded as legal advice. If you would like additional information or have any questions, please contact:

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ECOVIS Bondar & Bondar Law Bureau is operating on the Ukrainian market for more than 15 years and focuses its practice on Corporate & Commercial Law, Mergers & Acquisitions, Corporate Restructuring, Antimonopoly & Competition Law, Banking & Finance, Litigation and International Arbitration, Insurance, Air Law & Transportation, Land Law, Real Estate, Construction & Development, Tax.

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