



# UKRAINE SIMPLIFIES CROSS-BORDER FINANCING TO RESIDENTS

*This newsletter should not be used as an instruction for taking legal advice in any particular case.  
If you have any questions, you are welcome to contact:*

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On August 20, 2018, amendments to the Regulation on the Procedure for Obtaining Foreign Currency Loans by Residents From Non-residents and Granting Foreign Currency Loans by Residents to Non-residents No. 270 dated June 17, 2004 (the "Regulation 270"), entered into force.



Amendments are a part of a larger work by the National Bank of Ukraine (the "NBU") on implementation of the new Law of Ukraine "On Currency and Currency Operations" dated June 21, 2018. The major changes are as follows:

- the NBU obliged banks to independently verify the documents required for financial monitoring (in accordance with Regulation No. 369 dated 15.08.2016). This, probably, will accelerate the registration procedure, although the servicing banks retain the right to request additional documentation from the client until satisfied with information provided. Now the registration shall be done by the NBU based solely on the decision of the servicing bank. Accordingly, the NBU can no longer refuse or revoke the registration on its own initiative;



- from now on, servicing banks must verify the legitimacy of obtaining loan funds, including proper registration of the loans with the NBU. This change, in particular, means enhanced analysis of the loan transaction by the bank to which servicing of the loan has been moved;
- the NBU expressly allowed repayment of loan in a foreign currency other than the loan currency if such possibility is stipulated in the loan agreement. Previously, absent official clarification from the NBU, the banks usually required an amendment on change of the loan currency to effect such payments;
- the NBU clarified the provisions of Regulation 270 confirming that no individual license is required for the use of foreign currency on the territory of Ukraine for repayment of a loan in favor of an international financial institution to its current account in UAH, as well as for transfer of foreign currency abroad for repayment of indebtedness to a non-resident;
- the NBU has codified two more practical situations: loan funds can be disbursed prior to registration of the loan if (i) a loan from a resident is being assigned to a non-resident or (ii) a loan is obtained by an individual for non-business purposes to an account outside Ukraine. Both situations are subject to subsequent registration, in case of individual – upon her/his return to Ukraine);
- a compound interest is no longer considered a part of aggregate loan amount; consequential increases of the loan amounts and/or the effective interest rate may require registration with the NBU and may be deterred by the maximum interest rate established by the NBU. Since practical application of this change is unclear, the servicing banks may be inclined to reject compounding under the loan agreements;

- Regulation 270 allows a loan commitment by a pool of non-banking lenders. Previously, only Ukrainian authorized banks were mentioned as possible co-lenders to foreign lenders. Obligation to register a portion of the loan to be granted by and/or repaid to a non-resident remains intact;
- the servicing bank's transformation or name change (where the bank codes are retained) does not require application by the borrower, all amendments are responsibility of the servicing bank. If the borrower is licensed as an authorized bank, it must report such changes to the NBU during the next subsequent registration of amendments to the loan agreement;
- grounds for cancellation of the loan registration were extended by incorporating two practical situations – (i) closure of all the borrower's bank accounts in the servicing bank, and (ii) novation of the loan, that is registration of a new loan (at the request of the borrower) with simultaneous cancellation of the foregoing;
- application for cancellation of the registration must be considered within reduced term of one business day;
- the servicing bank is obliged to notify the borrower in writing about its intention to cancel registration of the loan agreement at least three months prior to sending the request to the NBU.