



Національний
банк України

FX Sub-Law Regulation Project

according to the Law of Ukraine “*On Currency and Currency Operations*”

Open Market Operations Department

Kyiv

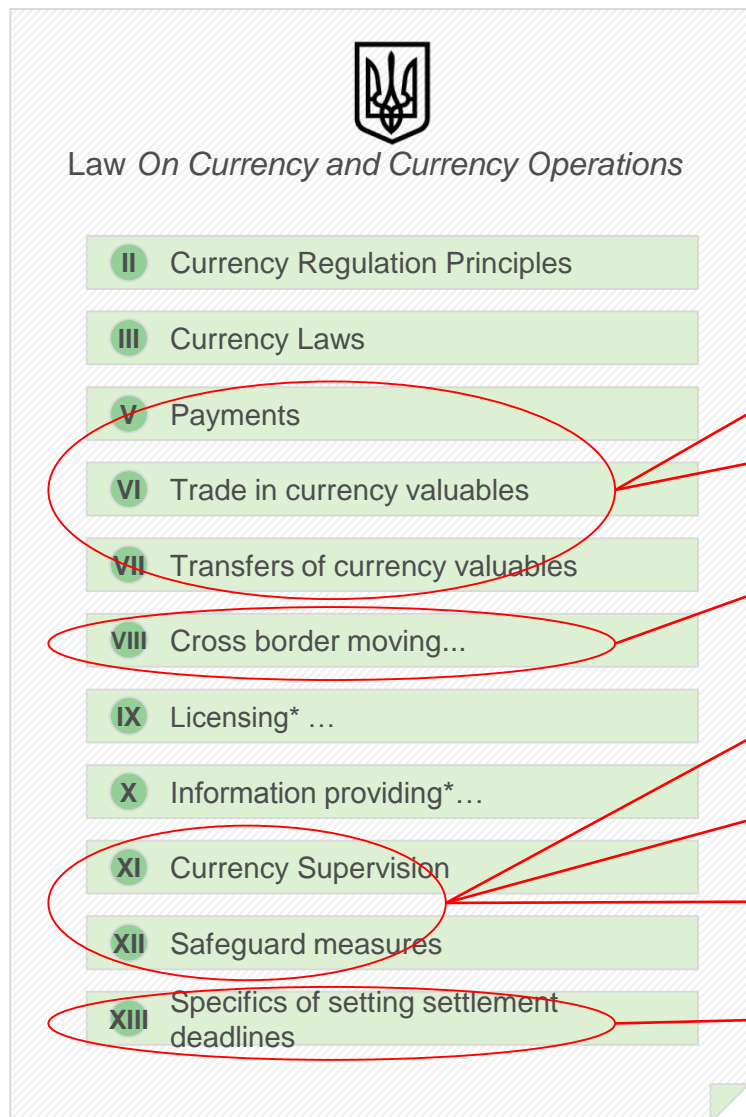
17 September, 2018

1. New Regulation

The aim is to develop new FX rules and regulations on the basis of the following principles:

- **Simplicity** – minimizing the number of rules and regulations
- **Clearness** – consolidating these rules and regulations according to the logic of the new currency law
- **Accessibility** – creating a new FX regulation page on the NBU's website (+ providing an English translation and links to other laws)

1.1. A New Model of the Regulatory Framework



The following seven new regulations are expected to replace 56 rules and regulations:

No.1 Market structure and trade

No.2 Payments, purchases and transfers

No.3 Cross border moving

No.4 The safeguard measures list and implementation criteria

No.5 Safeguard measures on FX market and their implementation procedure

No.6 Other instruments of money market stabilization

No.7 Meeting settlement deadlines

* The NBU's regulations that govern related areas

1.2. A New Model of the Regulatory Framework

7 Key Documents:



Other separate FX Regulations

- Crimea free economic zone
- Nationalizing currency valuables
- Foreign exchange regulation and controls under special circumstances
- Other regulations (potentially).

The NBU's existing regulations in related areas:

Payment Systems and Innovations Department

- Opening/closing accounts (**No.492**),
- Electronic money (**No.481**),
- Electronic means of payments issuance (**No.705**),
- Money transfer documents (**No.216**).

Legal Department

- The rules for keeping, protecting and disclosing bank secrets (**No. 267**).

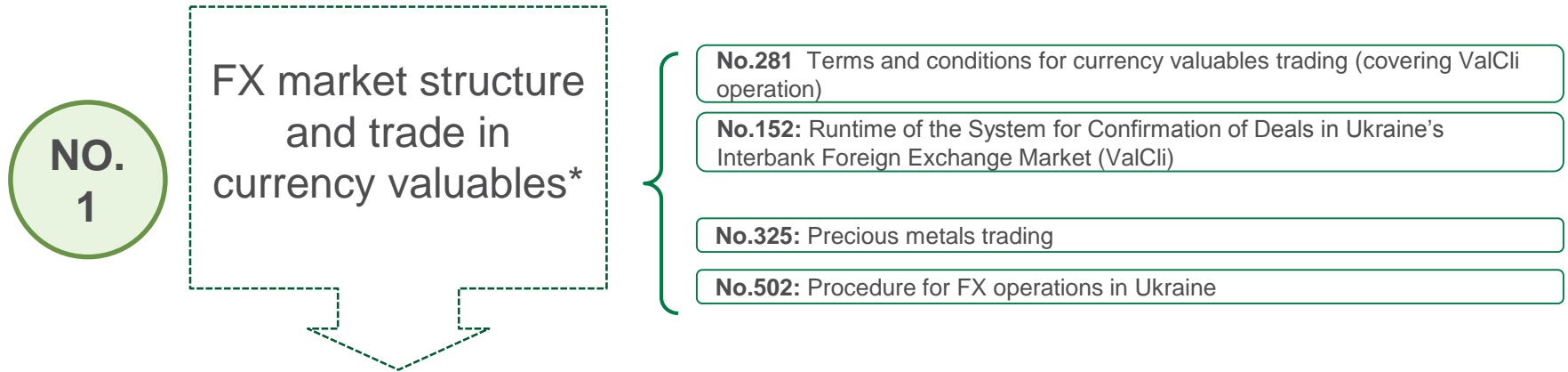
Financial Monitoring Department

- The regulation on analysis and documentation control on financial operations and their participants by banks (**No.369**)

Licensing Dept. / Methodology Dept.

- NBF1 licensing (**No.297**)
- on-site/in-office inspections (**No.338**)
- Regulation on FX control (in NBFIs) (**No.49**).

1.3. New Regulations: Consolidation



- *market players (banks, the NBU, financial companies, postal service providers)*
- *the NBU's operations on the interbank FX market (interventions)*
- *the specifics of bank's trade in foreign currency (FCY) and precious metals (PM)*
- *trade in FCY cash*
- *operations with PM in banks' pay offices.*

* Here and below draft names of future regulations

1.4. New Regulations: Consolidation

No.2

Rules for FCY payments, purchases and cross border transfers

- *transaction categorization (current or capital)*
- *the rules for settling transactions in FCY and PM, and for transferring FCY and PM, in Ukraine*
- *cross border UAH and FCY transfers*
- *rules for FCY purchases, sales and exchange by banks and their customers*
- *the specifics of PM operations conducted by banks and their customers*
- *the specifics of exchanging FCY cash in Ukraine*
- *the specifics of using FCY cash in Ukraine*

No.281: FCY purchase and exchange under current and capital transactions

No.118 FCY and UAH purchase and transfer (current + capital transactions)

No.496: Individuals' transfers within Ukraine and abroad

No.286: IFIs' current accounts

No.280: Rules for foreign investments

No.409: Some residents' repayments under foreign obligations

No.12: FCY transactions on loans from nonresidents

No.270 Resident-to-nonresident loans and vice versa

No.135 FCY in insurance business

No.365: FCY inflows to current accounts of individuals

No.200: FCY cash usage in Ukraine

No.699: Crimea free economic zone*

No.325: PM trading

No.502 Procedure for FX operations in Ukraine

No.266 Some transactions of German-Ukrainian Fund

* In the course of drafting the document, it will be discussed whether to include provisions of Resolution No.699.

1.5. New Regulations: Consolidation

**No.
3**

Moving Currency Valuables across the Border

- Cross-border movements of foreign and domestic currency cash and PM by corporates and private individuals
- Cross-border movements of certain securities (FATF requirements).

No.148 Cross-border cash and PM transfers

No.327: FCY and PM cross-border moving by banks

No.166: UAH cash cross-border moving by banks

No.356 Limits on UAH export

No.469 Cross-border movement of securities*

** Whether this needs to be regulated will be determined after discussions with Ukraine's Fiscal Service*

**No.
4**

The safeguard measures list and implementation criteria (a new document as required by the law)

- the criteria and procedure for introducing safeguard measures (cooperation with the NBU Council and the FSC)
- a complete list of potential safeguard measures
- extending the duration of safeguard measures
- early termination of safeguard measures
- reporting to the NBU about introduced safeguard measures.

1.6. New Regulations: Consolidation

No.5

No.5 Safeguard measures on FX market and their implementation procedure

- *implemented safeguard measures and rules for their application*
- *grounds for purchasing/cross-border transferring FCY*
- *specifics of currency operations on residents' and nonresidents' accounts in the banks of Ukraine*
- *anti-crisis measures.*

No.410: Anti-crisis measures

No.65: Obligatory surrender requirement

No.281: FCY purchase and exchange under current and capital transactions

No.118: FCY and UAH purchase and transfer (current + capital transactions)

No.496: Individuals' transfers within Ukraine and abroad

No.286: IFIs' current accounts

No.280: Rules for foreign investments

No.409: Some residents' repayments under foreign obligations

No.12: FCY transactions on loans from nonresidents

No.54: Regulation on e-licenses

No.270: Resident-to-nonresident loans and vice versa

No.135: FCY in insurance business

No.365: FCY inflows to current accounts of individuals

No.200: FCY cash usage in Ukraine

No.492 UAH/FCY accounts opening/closing

No.420: Setting a provisioning requirement (in per cent) for depo and loans from nonresidents

No.325: PM trading

Provision of the Law of Ukraine «On settlements performance...» in part of **setting** 180-day deadline for settlements

1.7. New Regulations: Consolidation

No.
6

Other instruments of
money market
stabilization

No.270: Resident-to-nonresident loans and vice versa

No.171: Rules for provisioning for deposits and loans from nonresidents

- *provisioning for currency operations (short-term loans/deposits etc.)*
- *an informational system for data collection on currency operations (loans from nonresidents)*

No.
7

Meeting
settlement
deadlines

No.136 Export and import control

A provision of the Law of Ukraine «On settlements performance...» in part of **controlling** 180-day deadline for settlements

- *rules for the banks executing control over payment deadlines set by the NBU*
- *specifics of controlling payment deadlines*
- *Communication procedure for implementation of this safeguard measures between Cabinet of Ministers, State Fiscal Service, State Customs Service, Ministry of Economic Development and Trade and the NBU.*

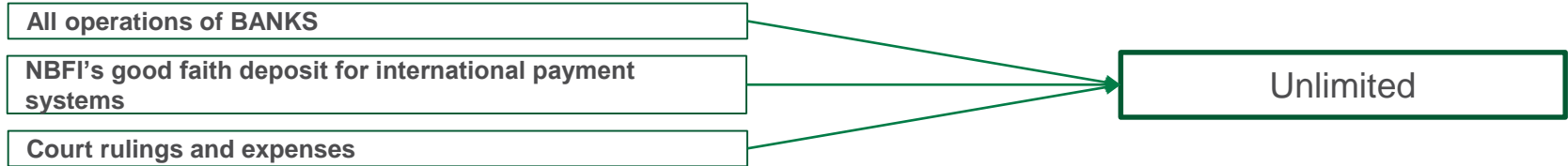
2. Enacting the Law of Ukraine *On Currency and Currency Operations*

What will change immediately?

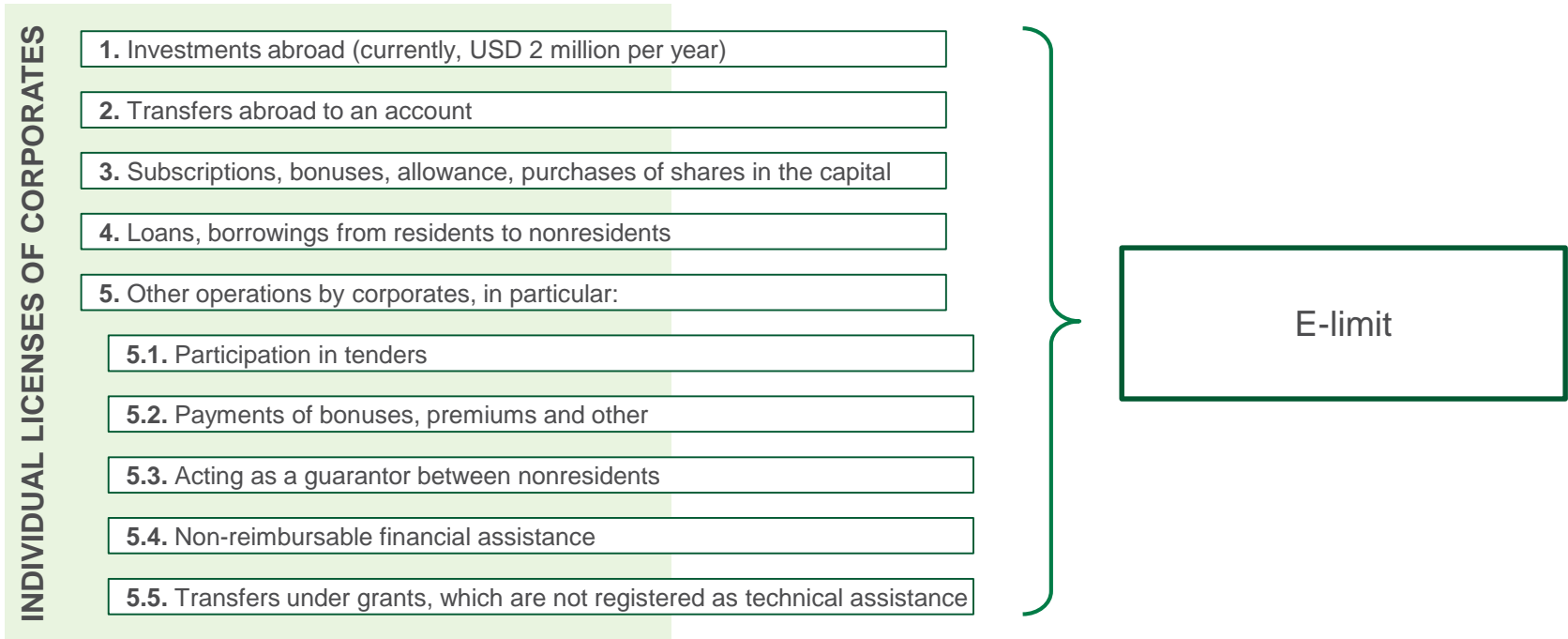
1. **Deadline for settlements** under export/import transactions will be extended to 365 days (from 180 days)
2. **Cancellation of currency supervision** for export/import operations under UAH 150,000 (UAH 300,000 in the event of legislative amendments)
3. **Cancellation of individual licenses**, which will be substituted with the e-limits system
4. **Opening accounts** by nonresident corporates with local banks and by resident corporates outside Ukraine with the provision of information on such residents' accounts (subject to discussion with the State Fiscal Service of Ukraine)
5. **Notifying nature** of information provision on external borrowings (currently, it implies registration and constitutes an authorization system in fact)
6. **Online FCY purchases** by individuals, similar to the limit on FCY cash purchases (currently, the equivalent of up to UAH 150,000 per day)
7. **Lifting the ban on payments** in FCY for the purpose of life insurance
8. **FCY settlements** on public securities denominated in FCY and involving banks.

3. Introduction Model for the Limits on Transactions (to substitute the licensing of separate currency operations)

1



2



3

For individuals, the current e-license system (**USD 50,000 per year**) applies with no changes

4. Accounts of Nonresident Corporates with Local Banks (cancellation of investment account)

AS IS → WHAT HAS CHANGED? → WILL BE

- 1 Investment account:**
 - is used for investment activities
 - is not registered at the State Fiscal Service of Ukraine
 - received income is taxed by a tax agent
- 2 Nonresident account of P-type:**
 - is used to carry out business activities within Ukraine
 - is registered at the State Fiscal Service of Ukraine, whereas a nonresident receives an EDRPOU code and becomes a currency and tax resident
- 3 Nonresident account of N-type:**
 - is used by official and diplomatic missions for their needs
 - does not imply business activity within Ukraine

WHAT HAS CHANGED?

LEGISLATION

1. **Law of Ukraine On Currency and Currency Operations:** nonresidents have all rights, as granted to residents (including the right to open accounts with local banks)
2. **Law of Ukraine On Nominal Holder:** nonresident investor account is cancelled (it will be simply a nonresident account)

Effective as of February 2019

Effective as of November 2019

WILL BE

- 1 Nonresident account of P-type:**
 - is used to carry out business activities within Ukraine
 - is registered at the State Fiscal Service of Ukraine, whereas a nonresident receives an EDRPOU code and becomes a currency and tax resident.
- 2 Nonresident account of N-type supplemented with the following list of operations:**
 - settlements under export-import transactions
 - investment activities
 - free crediting/transferring of funds from/to other countries
 - other non-trade operations
 - no business activities within Ukraine



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