



**Board of the National Bank of Ukraine  
RESOLUTION**

2 January 2019                      Kyiv

No. 6

**On Approval of the Regulation on the Procedure for the Provision of Information by Banks to the National Bank of Ukraine Regarding Agreements Under Which Residents Discharge Liabilities to Nonresident Creditors Under Loans Taken Out by Residents**

In accordance with Articles 7, 7<sup>1</sup>, 15, 25, 44, and 56 of the Law of Ukraine *On the National Bank of Ukraine*, the Law of Ukraine *On Banks and Banking*, the Law of Ukraine *On Currency and Currency Operations*, and in order to ensure stability of the domestic currency of Ukraine, the Board of the National Bank of Ukraine hereby **resolves** to:

1. Approve the Regulation on the Procedure for the Provision of Information by Banks to the National Bank of Ukraine Regarding Agreements Under Which Residents Discharge Liabilities to Nonresident Creditors Under Loans Taken Out by Residents (hereinafter referred to as “the Regulation on Information Provision”).
2. Banks shall initiate registration / cancellation of registration of agreements by means of the dedicated software of the National Bank of Ukraine for registering the agreements under the Regulation on the Procedure for Obtaining Loans in Foreign Currency by Residents from Nonresidents and Issuing Loans in Foreign Currency by Residents to Nonresidents approved by NBU Board Resolution No. 270 dated 17 June 2004 and registered by the Ministry of Justice of Ukraine under No. 885/9484 (as amended) on 15 July 2004 (hereinafter referred to as “Regulation No. 270”) until 6 February 2019, 2:00 p.m.
3. On 7 February 2019, banks shall start conducting the residents’ transactions under the agreements that provide for residents to discharge liabilities to nonresident creditors under loans taken out by residents (hereinafter referred to as “the agreements”) taking into account the following:
  - 1) The registration of agreements that the National Bank of Ukraine carries out before 7 February 2019 (registration certificates granted by the National Bank of Ukraine to resident borrowers) shall be declared null and void.
  - 2) Banks shall be obliged to submit the information on agreements electronically to the automated information system of the National Bank of Ukraine *Loan Agreements with*

*Nonresidents* (hereinafter referred to as “the Information System”) under the procedure set forth in the Regulation on Information Provision starting 7 February 2019, 10:00 a.m., and taking into account paragraph 3 subparagraphs 4 and 5 hereof.

3) The information on agreements submitted by banks under Regulation No. 270 to the National Bank of Ukraine for registration (to introduce changes to the registration of agreements) that exists in the electronic register maintained via the dedicated software of the National Bank of Ukraine for registering the agreements (hereinafter referred to as “the Register”), as of 7 February 2019, 10:00 a.m., shall be automatically transferred to the records of the Information System (the number and date of a Register entry corresponding to an agreement shall become the number and date of the record of the same agreement in the Information System).

4) The information on agreements that has been transferred to the Information System records pursuant to paragraph 3 subparagraph 3 hereof shall be changed/clarified by a bank (where necessary) under the general procedure according to the Regulation on Information Procedure.

5) If the Information System contains no record of an agreement the registration of which has been confirmed by a registration certificate (including annexes, if any) in hard copy that has been issued by the National Bank of Ukraine to a resident borrower and remains effective as of 6 February 2019, a bank shall submit the information on the agreement (indicating the number and date of the relevant registration certificate) to the Information System no later the day when a currency transaction under the agreement is conducted by the bank.

4. Following the official publication, the Open Market Operations Department (Serhii Ponomarenko) shall communicate to banks the information on the approval of the Resolution.

5. The Resolution shall enter into force on the day following the day of its official publication, save paragraphs 1 and 3 hereof that shall enter into force on the day of the enactment of the Law of Ukraine *On Currency and Currency Operations*.

Governor

Yakiv SMOLII

Ref. 40

APPROVED  
by Resolution of the Board  
of the National Bank of Ukraine  
No. 6 dated 2 January 2019

Regulation on the Procedure for the Provision of Information by Banks to the  
National Bank of Ukraine Regarding Agreements Under Which Residents Discharge  
Liabilities to Nonresident Creditors Under Loans Taken Out by Residents

I. General Provisions

1. This Regulation has been drafted in line with the Law of Ukraine *On the National Bank of Ukraine*, the Law of Ukraine *On Banks and Banking*, Article 10 part one and Article 11 of the Law of Ukraine *On Currency and Currency Operations*, and the regulations of the National Bank of Ukraine (hereinafter referred to as “the NBU”) and establishes the procedure for banks to submit to the NBU the information on agreements under which residents (other than banks) take responsibility to fulfill debt obligations to nonresident creditors under loans taken out by residents (hereinafter referred to as “the notification of an agreement”).
2. For the purposes of this Regulation, the following definitions shall apply:
  - 1) Automated information system of the National Bank of Ukraine *Loan Agreements with Nonresidents* (hereinafter referred to as “the Information System”) means a set of organizational and technological means of the NBU ensuring the formation of the centralized database of contracts under which residents take responsibility to fulfill debt obligations to nonresident creditors under loans taken out by residents (reimbursable financial assistance inclusive).
  - 2) Agreement means a contract that provides for fulfilling by a resident (that is not a bank) of obligations to a nonresident creditor under a loan (including reimbursable financial assistance) taken out by this resident or (in the event of the succession/transfer of debt) by another resident (including a borrowing bank).
  - 3) Loan means the currency valuables that are provided/received as a credit (including repayable financial assistance) under a credit agreement.
  - 4) New debtor means a new debtor with regard to the liability under the agreement due to the succession/transfer of debt of the resident borrower.
  - 5) Account for settlements (payments) under the agreement means an account of a resident (other than a bank) that is a borrower or a new debtor under the agreement

used for cash settlements (payments) in transactions under the agreement [transfer of currency valuables to the account of the resident borrower, received as a loan from the nonresident; transfer of funds from the account of the resident borrower (the new debtor) to make payments to discharge liabilities of the resident borrower to the nonresident creditor as provided for by the agreement].

Other terms used herein shall have the meanings as defined in the laws of Ukraine and the regulations of the NBU.

3. The Regulation shall not apply to an agreement if:
  - 1) currency transactions under the agreement are carried out without the use of accounts of residents, opened with the banks in Ukraine
  - 2) currency transactions under the agreement are carried out by a borrowing bank (a bank being a new debtor)
  - 3) the agreement concerns a trade credit
  - 4) the agreement provides for a transfer of funds to a resident by a nonresident, whereas the resident issues a crop receipt to the nonresident, and/or the discharge of liabilities by the resident under a financial crop receipt in line with the Law of Ukraine *On Crop Receipts*
  - 5) the loan under the agreement is taken out by the state or under the state guarantee
  - 6) the creditor under the agreement is an international financial organization (IFO) where Ukraine is a member or an international financial organizations entitled under the agreements with Ukraine to equal legal treatment with other IFOs.
4. Banks shall submit the notifications of agreements to the NBU by means of the Information System.
5. A resident (other than a bank) that is a borrower or a new debtor under the agreement shall have the right, on his/her/its own initiative, to apply to a bank selected by such resident where he/she/it has an account, with the intention of using this account as an account for settlements (payments) under the agreement and to provide documents/information on the agreement (including where appropriate any other additional agreements or documents related to the implementation of the agreement and the transactions under the agreement).
6. The resident shall have the right to apply to the selected bank prior to the actual currency transactions under the agreement, if the information about the agreement is submitted to the NBU for the first time or in order to change the bank where the account is opened for settlements (payments) under the agreement, or in

order to introduce changes to the information on the agreement in the Information System.

7. In case the resident applies to the bank as provided for by Section I paragraph 6 hereof, the bank shall be obliged to submit the notification of a relevant agreement to the NBU within the period not exceeding five business days following the date of the application (but no later the date of the first currency transaction conducted by the bank under the agreement).

8. The NBU adds the information contained in the notifications of agreements, submitted by banks, to the Information System based on the applications without taking on any obligations regarding the agreement or the claims of the parties under the agreement (in particular, their availability, validity, legitimacy, and relevance, as well as the identification of the liable party) and/or any responsibility for the reliability of the information added to the Information System from the notifications of agreements, submitted by banks.

## II. Procedure for Operation of the Information System

9. The information from the notifications of agreements submitted by banks shall be added to the Information System automatically in the form of:

1) a separate record (hereinafter referred to as "the record") in case the NBU is notified of the agreement for the first time and the relevant information has not been previously submitted to the Information System and has not been added to it. The date and number of the record corresponding to an agreement shall remain unchanged and shall be further used for its identification in the Information System.

2) changes to the record (in case the relevant record corresponding to an agreement exists in the Information System). The date of change of the record shall be the date of change of the relevant information contained in the Information System.

10. A confirmation containing the date and number of the record corresponding to an agreement and signifying that the information from a notification submitted by a bank has been added to the Information System shall be generated and updated (to introduce changes to the information in the Information System) by means of the Information System and provided to the bank by granting access to the information contained in the Information System.

A notification of changes to the record regarding the change of the bank where the account for settlements (payments) under the agreement is opened shall be generated and communicated by means of the Information System to the last bank that conducted the settlements (payments) of a resident borrower (a new debtor) for transactions under the agreement.

11. In case of the change to the full name of a bank (the name and/or the organizational and legal status, save the bank code), the bank is not required to provide information [regarding the change of the bank where the account for settlements (payments) under the agreement is opened] to the Information System (in such case, the information on the changed full name of the bank shall be obtained by means of the Information System automatically from the electronic form of the State Register of Banks of Ukraine maintained by the NBU).

### **III. Procedure for Submitting Notifications of Agreements to the Information System by Banks**

12. The bank shall provide the information on each agreement under which the transactions between a resident borrower (a new debtor) and a nonresident creditor are carried out via an account for cash settlements (payments), opened with this bank.

If several residents are borrowers (new debtors) under one agreement, a bank shall submit a separate notification to the Information System for each of such residents (specifying the share of the loan received or subject to repayment by this resident to the nonresident creditor), except when all settlements (payments) among the resident borrowers (new debtors) and the nonresident creditor under the agreement are carried out through one resident authorized by the resident borrowers (new debtors).

13. The items of information to be submitted to the Information System within the notification of an agreement (in case no relevant record corresponding to the agreement exists in the Information System or in order to change the record corresponding to the agreement) are set out in Annex hereto.

14. A bank shall be obliged to ensure that the information submitted to the Information System is consistent with the information or documents on the agreement (transactions under the agreement) that the bank possesses.

15. A bank shall submit to the Information System the notification of an agreement [containing information on the agreement (including additional agreements, if any, documents related to the implementation of the agreement and the execution of transactions under the agreement) and, where necessary, the information regarding the change of the bank with which the account for cash settlements (payments) under the agreement is opened]:

1) at the request of a resident borrower (a new debtor) taking into account Section I paragraph 7 hereof

2) on its own initiative, no later than on the day when the first currency transaction under the agreement is conducted by the bank [if, before the actual currency transactions under the agreement by the bank, a resident borrower (a new debtor) had not made the relevant request].

16. The bank that has made a mistake (mistakes) in the notification of an agreement, which has been submitted to the Information System and added as a record (changes to the record) corresponding to an agreement, shall be permitted to correct the false information that has been added to the record and requires correction (given that the correction of such information is carried out before further changes to the relevant record). The bank shall correct such false information by means of the Information System within seven business days from the date when the information entered the Information System.

17. A bank shall ensure completeness and authenticity of the information/documents on the agreement submitted to the Information System.

18. The bank, having submitted the notification of an agreement to the Information System, shall notify the relevant resident borrower (the new debtor) in accordance with Section III paragraph 22 hereof.

19. The bank, in case the liability of a resident borrower arises from an agreement on receipt of cash or investment metals (the amount of the loan) from another resident and the claim on this liability is transferred from the resident creditor to a new nonresident creditor (due to purchase and sale / assignment, transfer of rights of claim, or on other grounds), shall submit to the Information System the notification of an agreement with regard to the relationship between the resident borrower and the new nonresident creditor [on receipt of currency values (the share of the loan) by the resident borrower from the new nonresident creditor and/or discharge of liabilities under the agreement by the resident borrower to the new nonresident creditor (including liabilities under which the rights of claim have been transferred to the new nonresident creditor from the initial resident creditor)].

20. The bank, in case a loan to a resident borrower is issued by a nonresident creditor and a resident creditor under one agreement, shall submit information to the Information System only on the share of the loan that envisages payment transactions between the resident borrower and a nonresident (a creditor or an agent of creditors) under this agreement.

21. In the event that, as a result of the innovation, an initial liability under the agreement(s), on which the record(s) exist(s) in the Information System, is replaced by a new liability between the agreement parties if they so agree, a bank shall submit to the Information System the notification of the new credit agreement (innovation) with reference to the record(s) that correspond(s) to the agreement(s), the liability under which is terminated by the innovation.

22. No later than on the business day following the day when the record (changes or adjustments to the record) corresponding to an agreement (based on the information on the agreement, submitted to the Information System by the bank) entered the Information System, the bank shall provide a resident borrower (a new debtor) with a

written notification of the fact that the information has entered the Information System and the relevant report from the Information System.

23. The bank reserves the right to provide a report from the Information System [as an electronic or paper document containing information from the Information System on the record (with any changes or adjustments) corresponding to an agreement] upon written request of the entity being a party to the liability under the agreement (a resident borrower, a new debtor, or a nonresident creditor) or upon written request of another entity with the consent of the former.

24. The bank shall generate (update) an Information System report by means of the Information System. The Information System report shall be certified by the signature of an authorized person of the bank.

Serhii PONOMARENKO  
Director, Open Market Operations Department

APPROVED  
Deputy Governor  
National Bank of Ukraine  
\_\_\_\_\_ Oleg CHURIY  
(signature)  
\_\_\_\_\_ 2018  
(date)

Annex  
to the Regulation on the Procedure for  
the Provision of Information by Banks to  
the National Bank of Ukraine Regarding  
Agreements Under Which Residents  
Discharge Liabilities to Nonresident  
Creditors Under Loans Taken Out by  
Residents  
(Section III paragraph 13)

The information on an agreement under which a resident (other than a bank) take responsibility to fulfill debt obligations to a nonresident creditor under loans (reimbursable financial assistance) taken out by resident, which is submitted to the automated information system of the NBU *Loan Agreements with Nonresidents*, shall have the following items:

1. The details of the bank submitting the information on an agreement under which a resident (other than a bank) take responsibility to fulfill debt obligations to a nonresident creditor under loans (reimbursable financial assistance) taken out by resident (hereinafter referred to as “the notification of an agreement”), such as the full name and the sort code of the bank.
2. The information on the notification of an agreement and an originator of the notification of an agreement:
  - 1) type of the notification of an agreement: initial notification [submitted for the initial entry of information on an agreement in the information system of the NBU *Loan Agreements with Nonresidents* (hereinafter referred to as “the Information System”)]; subsequent notification (submitted to introduce changes or adjustments to the existing record corresponding to an agreement. The number and date of the record corresponding to an agreement shall be indicated separately.)
  - 2) notification of an agreement shall be provided: on the bank’s own initiative; at request of the resident borrower (the new debtor)
  - 3) additional information on the notification of an agreement, if available [it should be specified separately if the notification of an agreement is submitted to replace the debtor with regard to the share of a debt liability under the agreement that has been transferred to a new resident debtor by the initial resident borrower under the agreement or to introduce changes to the record corresponding to an agreement due to the change of the bank with which the account is opened for cash settlements (payments) under the agreement or a new credit agreement (innovation) with the

indication of the number and date of the agreement(s), the liability under which is terminated by the innovation].

3. The information identifying the resident borrower or the new debtor (in case the notification of an agreement is submitted to replace the debtor with regard to the share of a debt liability under the agreement that has been transferred to a new resident debtor by the initial resident borrower under the agreement; the relevant information about the original resident borrower under the agreement shall be specified as well):

1) for individuals: full name and the registration number of a taxpayer registration card. In case an individual has refused to accept the registration number of a taxpayer registration card due to religious beliefs and has the relevant mark in the passport, the series and number of the passport or the number of the passport card shall be specified.

2) for legal entities: full name and the identification code from the Unified State Register of Enterprises and Organizations of Ukraine.

4. The details (name, date, number) of the agreement [with the indication of additional documents / side letters that are integral to the agreement, as well as other agreements / documents related to the implementation of the agreement and the execution of foreign exchange transactions under the agreement, including all documents that establish/change the schedule (dates and amounts) of the transactions by the borrower to receive/repay the loan and carry out other payments under the agreement].

5. The total value of the loan (credit facility) (including repayable financial assistance) [amount, currency (foreign currency / hryvnia) or investment metal].

6. The deadline for payments under the agreement by the resident borrower (the new debtor) (the final date set forth in the agreement).

7. The date of actual transactions under the agreement (shall be specified, if the actual transactions under the agreement had been carried out before the day of the initial notification of the agreement and, accordingly, before the date of entry of the information on the agreement in the Information System, except when the procedure for submitting notifications of agreements to the NBU did not apply to the agreement as of the date of actual transactions).

8. Additional information (as appropriate).

9. Position, initials and last name of the manager of the bank (or another person authorized to represent the bank) who signed the notification. Information about the contact person at the bank (full name, phone number).