

National Bank of Ukraine Removes Interest Rate Caps

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The National Bank of Ukraine (the “NBU”) passed a decision to remove interest rate caps for loans with maturities exceeding one year extended to Ukrainian residents by foreign lenders.

Although the relevant resolution has not been yet made public, it is expected that it will become effective starting 27 October 2008. The decision has been taken against the background of the deepening global financial crisis and increased threats to the liquidity of the Ukrainian banking system and is aimed at allowing access to international financing by Ukrainian banks and corporates.

Background

In 2004 NBU has imposed a cap on aggregated amounts paid by Ukrainian borrowers under loan agreements with foreign lenders as part of the registration process applicable to such loan agreements. Limited amounts (other than principal that is not covered by the cap) include interest, fees, default interest, increased costs, indemnities and all other charges payable in connection with a loan. When expressed as a percentage to the principal amount of a loan, such aggregated payments may not exceed a relevant maximum interest rate established by the NBU as at the date of filing for registration. Currently, and until the above changes come into effect, the maximum interest rates established by the NBU for fixed interest rate loans

in major foreign convertible currencies (including U.S. dollars and Euro) are (i) **9.8 per cent.** p. a. for maturities below one year; (ii) **10.0 per cent.** p. a. for maturities between one and three years; and (iii) **11.0 per cent.** p. a. for maturities over 3 years. The maximum interest rate applicable to floating interest rate loans regardless of maturity is set at the level of **3-month USD LIBOR plus 750 bps.**

Recent Changes

With effect from 27 October 2008, the NBU is expected to register all loans in major foreign convertible currencies (including U.S. dollars and Euro) with maturities over one year, **regardless of interest rates thereunder.** Also, starting from 27 October 2008, the NBU is expected to register loans in major foreign convertible currencies, with maturities below one year, if the amount of all payments (other than of principal, but including interest, fees, default interest, and all other charges payable in connection with the loan) thereunder does not exceed an amount determined by applying **11 per cent. per annum** to the principal amount of such loan.

What is Next

While the above changes are expected to apply to new loans to be raised by Ukrainian borrowers after 27 October 2008, it remains to be seen whether and how the changes would affect the previously registered loan agreements. Although the ability to

increase payments under a loan through registration of amendments should be permitted if the increased payments do not exceed maximum interest rate as at the date of registration of changes, no assurances can be given as to how the registration of such amendments will be carried out in practice. In addition, it should be noted that the NBU has the authority to review and modify the maximum

interest rates from time to time and is likely to re-enact maximum interest rates for loans, maturities of which exceed one year, once the worst days of the global financial crisis are over.

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