



Andriy Grushyn,
Okhrimchuk Grushyn
Khandurin Law Firm

Transition of cash funds over the Customs Border of Ukraine

At the end of July 2008, amendments to the Ukrainian legislation regulating the transfer of cash funds over the customs border of Ukraine came into force.

Thus, on 27 May 2008 the National Bank of Ukraine by its Resolution No. 148 approved the Instruction on Transition of Cash Funds and Banking Metals over the Customs Border of Ukraine ('the Instruction'). This Instruction was registered by the Ministry of Justice of Ukraine on 11 June 2008 under No. 520/15211 and took effect on 27 July 2008.

The Instruction increased the maximum amount of foreign currency that was allowed to be taken out of Ukraine by individuals without any customs declaration. In particular, currently an individual is allowed to take into and out of Ukraine in-cash funds not exceeding the equivalent of ten thousand euros without a written declaration to the Ukrainian customs authorities. Amounts exceeding the equivalent of ten thousand euros may be taken into and out of Ukraine by individuals subject to the written declaration of the said amount in full (Article 2 of the Instruction).

As for legal entities, any limitation relating to the maximum amount of in-cash funds in foreign currency that may be delivered over the customs border of Ukraine was abolished entirely. Currently, a legal entity, acting through its authorised representative, has the right to get into and from Ukraine cash funds without any limitation on the amount, provided however that such funds are declared in full to the relevant customs authority.

In addition, an authorised representative shall declare in-cash funds taken into or out of Ukraine under authorisation of a legal entity and his/her personal funds separately using two forms of customs declaration.

In doing so, it should be noted that individuals and legal entities which take into and out of Ukraine in-cash funds in the amount that exceeds the equivalent of ten thousand euros, may do so only upon possession of documents which evidence that the funds were withdrawn from an account in a bank (financial institution), only for the amount by which the equivalent of ten thousand euros is exceeded. However, the Instruction does not provide a clear list of documents which may evidence such withdrawal and therefore, any document issued by a banking institution and saying that in-cash funds were withdrawn from a bank account may confirm such a transaction.

It should be remembered that, prior to 27 July 2008, the procedure for transfer of in-cash funds over the customs border of Ukraine was governed by the Instruction on Transition of Cash Funds, Banking Metals, Payment Documents, Other Bank Documents and Payment Cards over the Customs Border of Ukraine as approved by Resolution of the National Bank of Ukraine No. 283 dated 12 July 2000 and registered with the Ministry of Justice of Ukraine under No. 452/4673 on 28 July 2000 ('the Previous Instruction').

The Previous Instruction allowed individuals to take foreign currency and/or payment cards (e.g. Visa Travel Money) into and out of Ukraine only in the amount that did not exceed the equivalent of ten thousand US dollars (Article 1.2, Section III of the Previous Instruction).

Exceeding this maximum amount of foreign currency allowed for bringing from Ukraine by individuals required the obtaining of an individual licence from the National Bank of Ukraine.

There is no doubt that amendments made to the applicable Ukrainian legislation by the

Instruction on Transition of Cash Funds and Banking Metals over the Customs Border of Ukraine dated 27 May 2008 constitute a certain liberalisation of legislation in the area of transition of in-cash funds over the customs border of Ukraine, since the legislation update abolished some bureaucratic obstacles which existed in connection with bringing foreign currency over the border. In our opinion, it shows that the Ukrainian market is stable enough not to be threatened by considerable out flow of cash funds from Ukraine. ■

*By Andriy Grushyn – Okhrimchuk Grushyn
Khandurin Law Firm*