Baking Flash

On 23 July 2010 the Resolution of the NBU's Board of Directors as of 13 July 2010 No. 327 "On adoption of Regulation on provision by the NBU of stabilization loans to Ukrainian banks" (hereinafter – the "Regulation") became effective.

Mentioned resolution cancels resolution of the NBU's Board of Directors as of 4 February 2010 No. 47 "On adoption of Regulation on refinancing and provision by the NBU of loans to Ukrainian banks for the purpose of stimulation of crediting of Ukrainian economy for the period of its return to pre-crisis characteristics" and establishes new rules and requirements of providing banks with stabilization loans which are significantly different from the previous ones.

Pursuant to the new Regulation the stabilization loan may be granted **exclusively to solvent bank** for support of its liquidity for the 90-day term with possible extension up to 90 days.

Interest rate under the stabilization loan is floating and shall amount to the NBU's discount rate plus two interest points.

To limit the bank's liquidity risk the NBU may, upon granting the loan or changing its conditions, establish restrictions and requirements in respect of bank's activity.

To obtain the stabilization loan the bank shall, along with the other documents, provide the NBU with its program of financial rehabilitation aimed at solving the liquidity problem, improvement of assets structure, profitability etc. Moreover, within the validity term of the loan agreement the bank shall, on the monthly basis, provide the NBU with reports on fulfillment of the program of financial rehabilitation and provisions of the loan agreement.

Regulation contains the list of reasons for refusal to grant the stabilization loan, inter alia:

- Insolvency of the bank;
- Shareholders and investors of the bank have the objective possibility to ensure the proper financial conditions of the bank by themselves;
- Acquisition by bank of the fixed assets not involved in banking operations;
- Early fulfillment of obligations to owners/members of the bank (including affiliated persons), as well as under cross-border loans;
- Granting by bank unsecured loans, loans secured by non-liquid assets or securities of its own emission;
- Payment of bonuses to bank's management;

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- Purchase of the foreign currency on the interbank currency market for the credit funds received from the NBU;
- Untimely fulfillment of obligations under the NBU loans;
- Violation of requirements and restrictions stipulated by the NBU's resolution on loan granting or the loan agreement.

NBU shall have the right to inspect the bank, if it's necessary for making the decision on stabilization loan granting. In the event that the issue on changing the provisions of the loan agreement arises, the NBU shall inspect the bank-borrower and make the decision taking account of such inspection results.

If the NBU extends the term of the loan agreement the interest rate thereunder shall be equal to the NBU's discount rate plus three interest points, but not less than the average inter-bank credit interest rate (KIACR) in national currency for the term longer than 92 days, which shall be calculated 30 days prior to the date of the changes to the loan agreement.

In accordance with Regulation stabilization loan must be secured by primary and secondary collateral.

Collateral provided by the bank or property surety shall not be encumbered by other obligations.

The following assets shall be accepted as the primary collateral:

- Ukrainian state bonds;
- Debt securities issued by the NBU;
- Bonds of the State mortgage institution secured by the guarantee of the Cabinet of Ministers of Ukraine;
- Guarantees of the Cabinet of Ministers of Ukraine;
- Foreign currency (USD, EUR, English pound sterling, Swiss francs, Japanese yen) placed with the NBU as the guarantee deposit (without payment of interests on it) for the term not less than the term of the loan agreement.

The proprietary rights to the future receipt of funds on the correspondent account with the NBU shall be accepted as **the secondary collateral**.

In the event that the value of the collateral is decreased the bank shall repay part of the stabilization loan proportionally to the amount of the collateral value decrease or provide the sufficient additional collateral.

If the bank breaches provisions of the loan agreement the NBU shall have the right to write off the indebtedness from the bank's correspondent account with the NBU on the preemptive and unconditional basis, and terminate the agreement.

In general mentioned Regulation evidences that NBU has given up the idea of crediting the economy of Ukraine and support of the insolvent banks, what, in our opinion, is the result of active work in Ukraine of the International Monetary Fund and the EBRD which have always been insisting on inadmissibility of use of NBU's funds for such purposes.

Should you have any additional questions regarding the new Regulation or any other aspects of banking activity in Ukraine, we will be glad to provide you with our assistance.

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