

Client Alert

New Rules on Conducting Foreign Currency Operations by Residents and Non-Residents in Azerbaijan

13 December 2016

On 28 November 2016 the Central Bank of the Republic of Azerbaijan signed new Rules On Conducting Foreign Currency Operations by Residents and Non-Residents in Azerbaijan, which came into force on 8 December 2016 (the “Rules”).

The previous Rule 12 of the Central Bank of the Republic of Azerbaijan “*On Conducting Foreign Currency Operations by Residents and Non-residents*”, dated 27 May, 2002, has now been repealed.

The Rules define “bank account” as a current, credit, deposit or other account opened on the balance sheet of a bank for customers. The Rules has also define “imported services” for the first time as services and works provided by non-residents in the Republic of Azerbaijan, including services and works conducted in favor of residents outside of the country.

Foreign currency operations conducted without the opening of a bank account

Foreign currency money transfers within and outside of the Republic of Azerbaijan without the opening of a bank account may only be conducted by resident and non-resident individuals. Legal entities are not allowed to carry out such transfers without the opening of a bank account. No restrictions are imposed on foreign currency transfers to the accounts of resident and non-resident individuals. The transferred foreign currency may be paid to the individual beneficiary in cash or transferred to its bank account.

Every resident and non-resident individual may freely transfer abroad foreign currency in an amount up to the equivalent of USD 1,000 per day and up to the equivalent of USD 10,000 per month without opening a bank account.

Foreign currency operations conducted via bank accounts

Funds (in cash and in non-cash form) may be freely credited to the foreign currency bank accounts of residents and non-residents. The remittance of foreign currency outside of Azerbaijan from bank accounts may be carried out for the following types of transactions:

- *Funds transferred by residents and non-residents in return for imported goods or services, including advance payments.* A new deadline has been introduced requiring the submission to the bank of a customs declaration or a document confirming the provision of imported services within 180 days from the date of the advance payment. The failure to provide the relevant documents within the established deadline may lead to administrative liability and the relevant bank shall report such failure to the Financial Markets Supervision Authority. In contrast with the previous regulations, it is allowed for both contracting parties and/or a third party beneficiary to pay for imported goods or services, subject to the submission of the relevant documents. An exception is made for goods and services imported for defense and national security purposes, which are subject to the issuance of special instruction of the Cabinet of Ministers;

- The following types of transactions, *inter alia*, have remained regulated in nearly the same manner as under the previous rules, subject to additional clarification: re-export; refunds on unexecuted export agreements; transfers for the repayment of foreign loans and debts; transfers to overseas branches and representative offices, including subsidiaries and affiliated entities of resident legal entities; costs of judicial, arbitral and, notary costs and pensions; transfers by residents to non-residents for the purpose of the payment of dividends; and the repatriation of foreign investments previously made to the economy of the Republic of Azerbaijan;
- Transfers for the following purposes shall be carried out based upon the submission of the relevant agreement, invoice or digital commercial notification confirming the amount and purpose of the transfer:
 - a) fees for participation in international organizations, conferences, exhibitions and other fairs;
 - b) subscription fees to foreign periodicals, library information databases, etc.; and
 - c) payments for tuition and fees for medical treatment provided to residents, non-residents or other individuals;
- transfers for personal reasons, subject to the monthly limit of the equivalent of USD 10,000 mentioned above;
- transfers associated with revenues or other amounts related to investments of Azerbaijani non-residents, including payment of compensation and losses;
- payment of the salary of a non-resident employee under an employment agreement;
- foreign currency operations associated with the movement of capital of resident and non-resident individuals and legal entities, subject to the relevant confirming document:
 - a) transfer of investments to the authorized capital of legal entities incorporated outside of Azerbaijan;
 - b) transfers to acquire securities;
 - c) transfers for the payment for property rights to buildings and structures, including land and the subsurface, as well as property rights to other real estate, and other rights on real estate.

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