

- 6) foreign currency – currency of a foreign state, and also international monetary or settlement units;
- 7) foreign banks – banks and other financial institutions established outside of the Republic of Kazakhstan and possessing the right to carry out banking operations under legislation of the states in which they are registered;
- 8) commercial credits – deferment of payment on exports or prepayment (advance payment) on imports arranged directly between suppliers (vendors) and recipients (buyers) of goods (works, services);
- 9) national currency – currency of the Republic of Kazakhstan;
- 10) nonresidents – individuals, legal entities, their branches and representative offices not specified in sub-clause 15) of this Article;

18) financial loans:

loans granted in monetary form (except commercial credits);

deposits made with banks by their subsidiaries thereof created abroad for the purposes of attracting resources in international capital markets;

money transferred to guarantee the performance of a debtor's obligations;

financing, by third persons, of the ac

3. The National Bank of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan shall issue regulations obligatory for residents and non-residents in accordance with this Law within their competences.

Regulations concerning currency regulation developed by the currency regulation authorities shall be subject to obligatory coordination with the National Bank of the Republic of Kazakhstan.

4. The National Bank of the Republic of Kazakhstan, as the main currency regulation authority, shall establish:

1) requirements on the conduct of activity by residents connected with the use of currency valuables, in accordance with Article 6 herein;

2) the procedure of currency operations by residents and nonresidents, including the regimes of currency regulation of:

~~licensing;~~ *(repealed since January 1, 2007)*

registration;

notification;

3) the procedure for the monitoring of currency operations of nonresidents engaged in activities on the territory of the Republic of Kazakhstan (currency monitoring);

4) currency operation recording and reporting forms to be used mandatory by all residents and nonresidents, in coordination with authorized state bodies within their competences.

Currency operations for which this Law does not establish their procedure shall be carried out without restrictions.

Article 6. Requirements on Conduct of Activity Connected with the Use of Currency Valuables

1. The activities hereunder connected with the use of currency valuables shall be subject to licensing by the National Bank of the Republic of Kazakhstan:

1) conduct of retail trade and delivery of services for cash foreign currency;

2) organization of exchange operations with foreign currency by authorized organizations.

A license to engage in the activities specified in sub-clause 1) herein shall be issued to the persons doing business in the customs regime of a duty free store and aboard seagoing, inland waterway, air, rail and motor transport engaging in international carriage.

2. The National Bank of the Republic of Kazakhstan shall establish qualification requirements on the activities specified in clause 1 of this Article, and also the procedure for registering (opening) additional trading outlets and exchange offices. A document of established format -- an exchange office registration certificate -- shall be issued upon registration of an exchange office. Additionally, the following shall be established for the authorized organizations: procedure for approving foundation documents, requirements as to composition of founders, form of incorporation, amount and procedure for establishing charter capital, limitations with regard to creating subdivisions and participation in other legal entities.

3. To obtain a license, residents shall submit to the National Bank, aside from the documents specified under the Law of the Republic of Kazakhstan "On Licensing", the

documents stated in sub-clauses 1), 3) – 9) of the first part of Article 10 herein, on conditions and by procedure established by regulative act of the National Bank of the Republic of Kazakhstan.

4. Licenses to engage in activities stated in clause 1 herein shall be issued or their issuance shall be denied within 30 calendar days from the date the resident submits the complete package of documents.

When issuance of a license is denied, a reasoned written reply shall be made to the applicant.

5. The grounds for denial of a license shall be:

1) failure to submit document or other information foreseen in accordance with this Law;

2) the applicant's failure to meet requirements established in accordance with this Law;

3) other grounds foreseen by legislative acts of the Republic of Kazakhstan.

6. A regulative act of the National Bank of the Republic of Kazakhstan shall establish the format and procedure of submission of information on activities for which a license has been received.

Article 7. Licensing of Currency Operations

(the Article repealed since January 1, 2007)

~~1. — The National Bank of the Republic of Kazakhstan shall issue licenses for currency operations listed in Chapter 4 herein.~~

~~2. — A resident participant of a currency operation shall be required to apply for a license before an account is opened or before commencement of the performance of obligations under an agreement by one of the parties, or within 30 calendar days after expiration of period stated in the second part of clause 5, in clause 7 of Article 20, and in sub-clause 2), clause 3 of Article 25 herein.~~

~~3. — To obtain a license, in addition to the documents specified in accordance with the Republic of Kazakhstan Law "On Licensing" residents shall submit to the National Bank of the Republic of Kazakhstan the documents specified in sub-clause 1)–8), 10) of the first part of Article 10 herein, on conditions and by procedure established by a regulative act of the National Bank of the Republic of Kazakhstan.~~

~~The National Bank of the Republic of Kazakhstan shall have the right to additionally request documents referenced in the submitted documents.~~

~~4. — The National Bank of the Republic of Kazakhstan shall establish, in a regulative act, requirements:~~

~~1) on the volumes of currency operations subject to licensing in accordance with clause 3 of Article 22 herein;~~

~~2) on the conditions of transaction between a resident and non-resident who possesses the right to engage in professional activity on the securities market under the laws of the state with which he is regi~~

Article 9. Notification Regarding Currency Operations

1. The regime of notification shall include submission to the National Bank of the Republic of Kazakhstan of information of established format on the currency agreement by resident participants of currency operations and (or) by authorized banks, and also by professional participants of the securities market carrying out currency operations on instructions from customer, and subsequent submission of information on executed operations and on changes to the currency agreement.

Resident participants of currency operations shall notify the National Bank of the Republic of Kazakhstan after negotiating of the currency agreement, but no later than seven business days after the date of commencement of performance of obligations thereunder by one of the parties, and when an account is opened with a foreign bank within a period specified in clause 2 of Article 25 herein. If a notification procedure comes to be applicable to a currency agreement in the course of the performance of obligations thereunder, notification shall be furnished no later than seven business days after the date on which the currency operations carried out under the currency agreement become subject to notification.

2. The National Bank of the Republic of Kazakhstan shall provide a resident participant of currency operations with a certification of notification within no more than ten days from the date of receipt of information on the currency agreement from such participant.

3. For the purposes of clarifying the circumstances of currency operations, the National Bank of the Republic of Kazakhstan shall have the right to request submission of a currency agreement, under which such currency transactions are performed.

4. In the absence of the certification of notification, authorized banks and (or) professional participants of the securities market shall conduct the currency operations of customers, and notify the National Bank of the Republic of Kazakhstan according to procedure established by a regulative act of the National Bank of the Republic of Kazakhstan.

Article 10. Documents Required for Obtaining License and Certificate of Registration

In keeping with requirements imposed on activities connected with the use of foreign exchange valuables, and in keeping with the requirements of currency regulation regimes established by this Law, residents shall submit to the National Bank of the Republic of Kazakhstan:

- 1) an application;
- 2) a copy of the currency agreement, stitched and authenticated with a signature (for individuals and legal entities) and a seal (for legal entities);
- 3) a copy of a personal identity document (for individuals carrying out a currency operation);
- 4) a copy of certificate of state registration of a legal entity (for legal entities);
- 5) a notarized copy of foundation documents (for legal entities);
- 6) a copy of a document confirming assignment of a standard identification code issued by the authorized state statistical body of the Republic of Kazakhstan (for legal entities);
- 7) a copy of a document confirming state registration of a tax payer;
- 8) documents confirming that the applicant has met requirements, including qualification requirements, established by this Law and by regulative act of the National Bank of the Republic of Kazakhstan;

9) a statement from the bank showing that the resident has a foreign currency account;

10) copies of documents confirming origination, performance and termination of obligations under a currency agreement.

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1) the non-resident's obligation are terminated through the offset of a counter-claim of the same kind;

2) the non-resident's obligation are terminated through the substitution of the initial obligation existing between them by another obligation between the same persons foreseeing a different object or means of performance;

3) the rights of claim to non-resident are assigned to another person;

4) indemnity is received per occurrence under agreement on insurance of risk of failure to fulfil obligations by non-resident.

4. The National Bank of the Republic of Kazakhstan shall establish uniform rules and conditions to be followed by residents of filling out export and import transaction records (transaction passports), and the procedure of export-import foreign exchange

3) payments between individuals and legal entities licensed by the National Bank of the Republic Kazakhstan to engage in retailing and to deliver services for cash foreign currency;

4) payments between individuals and authorized banks or authorized organizations made through their exchange offices;

5) payments of wages by resident legal entities to nonresident employees, and of wages by nonresident legal entities to resident and nonresident employees in foreign currency;

6) payment of business travel expenses of employees outside the Republic of Kazakhstan in foreign currency by legal entities;

7) payments between individuals and nonresident legal entities doing business under customs control on customs territory of the Republic of Kazakhstan in airports, ports, and border crossings opened for international communication;

8) domestic currency payments between resident legal entities and nonresident legal entities doing business in the Republic of Kazakhstan, within the limits of the amount established by Republic of Kazakhstan legislation on money payments and transfers;

9) payments made through the issuance (assignment) of a check or bill;

10) payments and transfers of money made through accounts with foreign banks opened by procedure established by this Law;

11) transfers of money from accounts of nonresidents with foreign banks, made thereby in performance of the obligations of a resident, in cases foreseen by regulative act of the National Bank of the Republic of Kazakhstan.

Cash foreign currency received by resident and nonresident legal entities in foreign exchange operations carried out in the Republic of Kazakhstan shall be subject to

(the clauses 1,2,4,5,6 repealed since January 1, 2007)

~~1. Currency in payment of export of goods (work, services) shall be received by residents and placed to accounts with authorized banks within 180 days from the date of~~

3) transfer of money or other property in performance of the obligations of a participant of joint partnership.

2. Unless established otherwise by this article, payments of residents and payments of nonresidents in their favor connected with acquisition of

~~5) accounts are opened with foreign banks by resident legal entities specifically for entry of resources guaranteeing performance of the obligations of residents to nonresidents under loans attracted from nonresidents.~~

~~A limit on the balance of resources and the conditions for use of an account with a foreign bank may be established in a license from the National Bank of the Republic of Kazakhstan.~~

~~5. The accounts stated in sub clause 3), clause 4 herein shall be opened by resident legal entities under the registration regime.~~

~~The conditions for the use of such accounts shall be established by a regulative act of the National Bank of the Republic of Kazakhstan.~~

(the clauses 3,4,5 repealed since January 1, 2007)

Article 26. Accounts of Nonresidents

1. Nonresidents shall open foreign and (or) national currency bank accounts with authorized banks without restrictions.

2. Nonresidents shall have the right to transfer foreign and national currency from their accounts outside the Republic of Kazakhstan to their bank accounts with authorized banks, and from their bank accounts with authorized banks to their accounts outside the Republic of Kazakhstan without restrictions.

CHAPTER 5. CURRENCY CONTROL

Article 27. Goals and Objectives of Currency Control

1. The goal of currency control shall be to ensure compliance with Republic of Kazakhstan legislation by residents and nonresidents in their currency operations.

2. The objectives of currency control shall be:

1) to determine compliance with currency control conditions

7. Authorized banks shall not have the right to demand presentation of documents not related directly to a currency operation in progress.

8. Authorized banks shall refuse to carry out a currency operation if a person fails to present documents required under this Law and regulative acts of currency regulation and currency control authorities, or if a person presents untruthful documents, or if a person fails to do things established by currency legislation of the Republic of Kazakhstan.

Article 30. Corrective Measures and Sanctions

1. When violations of currency legislation of the Republic of Kazakhstan by authorized banks and authorized organizations are revealed, the National Bank of the Republic of Kazakhstan shall have the right to implement corrective measures provided by laws of the Republic of Kazakhstan.

When a violation of the procedure of exchange operations with foreign currency carried out by authorized banks and authorized organizations through their exchange offices is revealed, the National Bank of the Republic of Kazakhstan shall have the right to suspend the exchange office 's registration certificate for up to six months.

2. When violations of currency legislation of the Republic of Kazakhstan by licensees are revealed, the National Bank of the Republic of Kazakhstan shall have the right to suspend their licenses.

Article 31. Rights and Responsibilities of Residents and Nonresidents

1. Residents and nonresidents carrying out currency operations in the Republic of Kazakhstan shall have the right:

- 1) to become acquainted with reports on the results of inspections conducted by currency control authorities;
- 2) to appeal the actions of currency control authorities and currency control agents by procedure established by Republic of Kazakhstan legislation;
- 3) to exercise other rights provided by Republic of Kazakhstan legislation.

2. Residents and nonresidents carrying out currency operations shall be required:

- 1) to submit to currency control authorities and currency control agents all requested documents and information on currency operations by deadlines established by regulative acts of the National Bank of the Republic of Kazakhstan;
- 2) to make explanations to currency control authorities in the course of inspections by the latter, and in respect to their results;
- 3) to maintain records and prepare reports on their currency operations, and safeguard such records and reports for a period established by regulations of the National Bank of the Republic of Kazakhstan;
- 4) to fulfil the requirements (directives, orders) of currency control authorities concerning correction of revealed violations;
- 5) to make their premises, documents, and automated databases accessible to currency control authorities in the course of their inspections.

3. In cases established by this Law, residents shall be required to timely apply for and take all necessary steps to obtain a license, a certificate of registration, or certificate of notification of the National Bank of the Republic of Kazakhstan, and to comply with the conditions of an issued license.

CHAPTER 6. CONCLUDING PROVISIONS

Article 32. Restrictions Imposed in the Event of a Threat to Economic Security and the Financial System's Stability

1. In the event of a threat to the economic security of the Republic of Kazakhstan and the stability of its financial system, a special permit regime shall be introduced if the situation cannot be resolved by other instruments of economic policy.

2. The decision to introduce and extend a special permit regime, the procedure and conditions of issuing permits, and the operations that cannot be carried out without a special permit shall be determined by the President of the Republic of Kazakhstan after joint consultations with the Government of the Republic of Kazakhstan and the National Bank of the Republic of Kazakhstan.

3. A special permit regime shall be introduced for the time necessary to eliminate the threat to economic security and the financial system's stability.

A special permit shall be issued by the National Bank of the Republic of Kazakhstan provided that the operation is carried out by residents and nonresidents for the purpose of averting a threat to the life and health of citizens, to the security of the state, and to performance of international obligations by the Republic of Kazakhstan, and if the currency operation will facilitate a significant improvement of the situation in the balance of payments of the Republic of Kazakhstan and on the internal exchange market.