



**On approval of the Agreement on exchange of information, including confidential, in financial sphere for the purposes of creation of conditions in financial markets to ensure free floating of capital**

*Unofficial translation*

Decree of the Government of the Republic of Kazakhstan dated October 7, 2016 No. 572.

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The Government of the Republic of Kazakhstan HEREBY DECREES:

1. To approve the attached Agreement on exchange of information, including confidential, in financial sphere for the purposes of creation of conditions in financial markets to ensure free floating of capital, made in Moscow, on December 23, 2014.

2. This decree shall come into force from the date of its signing.

*Prime Minister  
of the Republic of Kazakhstan*

*B. Sagintayev*

Approved  
by decree of the Government  
of the Republic of Kazakhstan  
dated October 7, 2016 no. 572

**AGREEMENT**

**on exchange of information, including confidential, in the financial sphere for the purposes of creation of conditions in financial markets to ensure free floating of capital (Entered into force on October 21, 2016 - Bulletin of International Treaties of the Republic of Kazakhstan 2016, no. 6 art. 104)**

The Government of the Republic of Belarus and the National Bank of the Republic of Belarus, the Government of the Republic of Kazakhstan and the National Bank of the Republic of Kazakhstan, the Government of the Russian Federation and the Central Bank of the Russian Federation. Hereinafter referred to as the Parties,

Based on the provisions of article 70 of the Treaty on the Eurasian Economic Union dated May 29, 2014,

For the purposes of creation of conditions at financial markets in order to ensure free floating of capital,

declaring their intention to maintain mutually beneficial cooperation,

recognizing the importance of implementing the recommendations of the Basel Committee on Banking Supervision, the Bank for International Settlements, the Organization

for Economic Co-operation and Development (OECD), the International Association of Insurance Supervisors, the International Organization of Securities Commissions, and the Financial Action Task Force on Money Laundering (FATF),

sharing the desire to protect the rights and legitimate interests of consumers of financial services and investors,

Recognizing the need to determine the procedure for the exchange of information and its use in order to deepen the integration processes in the field of financial markets, as well as to ensure the exchange of confidential information between the authorized bodies of the member states of the Eurasian Economic Union (hereinafter - the member states) in order to protect the rights of participants in the financial market,

recognizing the approaches and level of protection of confidential information used by the Parties as equivalent and adequate,

have agreed as follows:

## **Chapter 1. General provisions**

### **Article 1. Definitions**

The present Agreement shall use concepts, which have the following meaning:

"the requested authority" - an authorized body of a member state, to which address in accordance with the present Agreement, a request for information is sent;

"the requesting authority" means an authorized body of a member state, which in accordance with the present Agreement, sends a request for information;

"confidential information" means information that comes to the authorized body of a member state, it has at its disposal as part of the exercise of its powers, is not a state secret or other secret equivalent to it by the legislation of a member state (state secret), access to which is limited and which is considered confidential in accordance with the legislation of a member state;

"parental (mother) organization" means a legal entity of one member state that directly or indirectly owns (acquires) more than 50 percent of voting stock(shares) and (or) has the ability to influence the adoption of decisions by a financial institution of another member state, or a financial organization of one member state that has (creating) a branch, representative office in the territory of another member state in accordance with the legislation of that other member state;

"cross-border organization" means a financial organization, created (being created) in the territory of a member state, in which a legal entity of another member state directly or indirectly owns (acquires) more than 50 percent of voting stock(shares) and (or) has the ability to influence the adoption of decisions, and (or) a branch, representative office, created (being created) by a financial organization of one member state in the territory of another member state in accordance with the legislation of that other member state;

"the authorized body" means a body of a member state having, in accordance with the legislation of this member state, the authority to regulate and (or) supervise and control the financial market, financial organizations (certain areas of the financial market);

"the financial organization" means a legal entity, which performs activities on provision of financial services in the financial market in accordance with the legislation of a member state;

"financial services" means the services of financial nature, including banking services, insurance services and services, related to insurance, services in the security market;

"the financial market" means the market for banking services, market for insurance services and services related to insurance, securities market of member states.

## **Article 2. Subject matter of the Agreement**

1. The subject matter of the present Agreement shall be relations arising in the framework of interaction between the authorized bodies of one member state for the exchange of information, including confidential, with authorized bodies of another member state.

2. The authorized bodies shall exchange information, including confidential, taking into account the requirements established by the legislation of the member states for the procedure for its use and dissemination.

## **Chapter 2. Exchange of information in the financial market and mutual consultations of authorized bodies**

### **Article 3. The procedure for providing access to information in the "Internet" information and communication network**

1. The authorized bodies shall provide the access to information stipulated by paragraph 2 of this article: for a quarter - not later than 60 calendar days following the reporting quarter, according to the results of the year - not later than 120 calendar days following the reporting year, on their official websites in the "Internet" information and communication network ( hereinafter referred to as official websites) in a specially designated section.

2. The following information about condition of the financial market and activities of financial organizations (by each of the member states) shall be posted on the official websites of the authorized bodies:

1) draft normative legal acts affecting the activities of financial organizations and the provision of financial services, if such projects are disclosed to an unlimited number of persons in accordance with the legislation of a member state;

2) general information about financial organizations and registered cross-border organizations of a member state, which includes the following information:

the relevant financial market;

names of cross-border organizations;

type and date of issue of permits and (or) licenses (certificates of state registration);

3) in the field of banking services:

assets of banks as a whole, including cross-border organizations;

obligations of banks as a whole, including cross-border organizations;

own capital of banks as a whole, including cross-border organizations;

4) in the field of insurance services:

total assets of insurance organizations in the whole market, including cross-border organizations;

own capital of insurance organizations in the whole market, including cross-border organizations;

insurance reserves of insurance organizations in the whole market, including cross-border organizations;

insurance premiums of insurance organizations in the whole market, including cross-border organizations;

insurance payments of insurance organizations in the whole market, including cross-border organizations;

5) in the field of securities market - the number and volume of transactions in securities of issuers of one member state admitted to circulation on the organized securities markets of other member states;

6) other information on the exchange of which the authorized bodies may agree separately and which does not contradict the legislation of the member states.

3. The Eurasian Economic Commission shall collect the information provided for in paragraph 2 of this article, and within 30 calendar days from the date of expiration of its posting by the authorized bodies on its official websites, shall post the generalized information on the official website of the Eurasian Economic Commission.

4. The authorized bodies shall submit to the Eurasian Economic Commission information on the structural units responsible for posting on their official websites the information stipulated by paragraph 2 of this article, within 30 calendar days from the date of entry into force of the present Agreement.

In cases of the appointment of other responsible units or other changes, the authorized bodies shall notify the Eurasian Economic Commission of this within 30 calendar days from the date of the relevant changes.

In the event of a change in authorized bodies, the Parties shall inform thereof each other and the Eurasian Economic Commission.

#### **Article 4. Mutual consultations of authorized bodies**

1. In accordance with the legislation of the member states, the authorized bodies will carry out mutual consultations and exchange of views on the following issues within their competence (authority) in the field of financial market:

1) Legislation and draft normative legal acts of their states in the field of regulation, supervision and control of the financial market and financial organizations, as well as

directions for harmonizing the laws of their states, taking into account international experience and best international practice;

2) development of systems for protecting the rights and interests of consumers of financial services and investors, including issues of guaranteeing deposits, insurance payments;

3) exchange of information on the law-enforcement practices of member states;

4) assistance in the organization of seminars, qualification courses, workshops to improve technical skills and advanced training of employees of the authorized bodies;

5) identification and assessment of risks arising in the financial market as a whole and in the activities of individual financial organizations operating in the specified market, improving the requirements for the organization of risk management systems;

6) promotion of financial literacy of the population of the member states, as well as establishment and development of pre-trial institutions for the resolution of disputes related to the provision of services, including through the institution of a financial ombudsman;

7) improving the requirements for qualifications and business reputation of persons holding senior positions in financial institutions and other persons involved in the management of financial institutions, in accordance with the legislation of the member states;

8) other issues arising in the course of regulation, supervision and control of the financial market and financial organizations.

2. The authorized bodies shall exchange views on issues of regulation, supervision and control of the financial market, including through the Advisory Committee on Financial Markets under the Eurasian Economic Commission.

### **Chapter 3. Exchange of information, including confidential, in the field of financial market**

#### **Article 5. Scope of regulation**

1. The authorized bodies, shall, within their competence (authority), carry out the exchange of information, including confidential, at the request of any authorized body in the fullest extent, including the following information:

1) state registration, activities stipulated by a license (permit), issuance or refusal to issue consent for the acquisition of shares (participatory interests) of a financial institution registered in another member state, composition of a banking group (bank holding), banking conglomerate, structure (composition of bodies) management of the parent (mother) organization, management and internal control system of the parent (mother) organization, shareholders (participants), affiliates, branches, representative offices, as well as organizations in respect of which an organization operating in the financial market of another member state has the opportunity, by virtue of its predominant participation in the authorized capital, either in accordance with the concluded agreement, or otherwise determine decisions made by the governing bodies of these organizations;

2) information required for making a decision on opening a cross-border organization, including information on the financial condition of the parent (mother) organization;

3) supervision and control over the activities of financial organizations, monitoring their compliance with prudential standards;

4) inspections carried out and their results with respect to the parent (mother) organization and the cross-border organization, as well as financial organizations engaged in regular cross-border operations;

5) application in relation to the parent (mother) organization, of cross-border organization or persons, holding administrative positions in them, corrective actions and sanctions;

6) results of the monitoring of compliance by the financial organizations, including the issuers of securities, with the legislation of them member states in relation of disclosure of information;

7) prevention, detection and suppression of abuses in organized trading in the form of unlawful use of insider information, market manipulation, detection of illegal or other illegal operations, including those related to the legalization (laundering) of proceeds from crime, and the financing of terrorism, as well as other violations of the financial market, the regulation of which falls within the competence (powers) of authorized bodies;

8) performance of cross-border insurance and reinsurance transactions in the insurance markets of the member states;

9) other information, related to the competence (powers) of the authorized bodies in accordance with the legislation of the member states.

2. If the information stipulated by this Agreement is directly available or may be received in the state of the requested authority, this body will apply all and any efforts in order to provide the assistance on the receipt of the requested information to the full scale.

3. The authorized body may send a request to provide the confidential information ( hereinafter referred to as the request) only for the purposes of performance by it of its functions.

#### **Article 6. Methods for the exchange of confidential information**

The authorized bodies in writing, in the form of face-to-face consultations and in electronic form through secured communication channels with possible subsequent confirmation in writing in case of interest of the Parties shall perform the exchange of the confidential information.

Use of the method of the exchange of confidential information shall be agreed by the Parties on bilateral basis in case of interest of the Parties.

#### **Article 7. The content of the request for provision of confidential information**

1. The request shall contain the following information:

1) name of the requesting authority;

2) name of the requested authority;

3) reference to this Agreement на;

- 4) description of facts, served the basis for sending of the request;
- 5) name of entities, in relation of which the confidential information is requested;
- 6) statement of objectives of the request;
- 7) description of requested confidential information;
- 8) information about persons allegedly possessing the requested information (if any);
- 9) information on the necessary precautions in obtaining the requested confidential information;
- 10) reference to normative legal acts the provisions of which are violated by facts in respect of which information is requested;
- 11) information on the need for representatives of the requesting authority to participate in the execution of the request;
- 12) other information, required for performance of the request.

2. The request shall be signed by the head or deputy head of the requesting authority.

3. In case of doubt related to the authenticity or the content of the received request, the requested authority shall have the right to request written confirmation of sending of this request.

#### **Article 8. Interaction of the authorized bodies in execution of the request**

1. The requested authority may, when necessary, allow representatives of the requesting authority to participate in the execution of the request, if this does not contradict the legislation of the state of the requested authority.

2. The authorized bodies shall have the right to exchange confidential information (opinions) on the issues of regulation, supervision and control of the activities of cross-border organizations through meetings, joint meetings, negotiations, as well as sending employees to member states for these purposes.

#### **Article 9. Execution of the request**

1. The request shall be executed within 30 calendar days from the date of its receipt in accordance with the procedure, established by the legislation of the state of the requesting body. In case of circumstances preventing or delaying the execution of the request on time, the requested authority within 15 calendar days from the date of receipt of the request shall send a notification about this to the requesting authority indicating the reasons that prevent or delay the execution of the request.

2. Response to the request, including the refuse to execute the request, shall be provided to the requesting authority in writing.

#### **Article 10. The refusal of the request**

1. The requested authority shall have the right to refuse fully or partially to execute the request in the following cases:

1) execution of the request contradict with the law or international obligations of the state of the requested authority;

2) with respect to the facts or persons in connection with which the request was sent, criminal proceedings have been instituted by the competent authorities of the state of the requested body or sanctions have been applied to the said persons or by the indicated facts by the competent authorities of the state of the requested body (except for the cases, when the requesting authority provides justifications according to which the alleged sanctions will not be a punishment for the same offense);

3) the request is made in violation of the requirements, set forth by article 7 of this Agreement;

4) the transfer of requested information may prejudice the sovereignty or affect the national security interests of the state of the requested authority.

2. In case of refusal or partial refusal to fulfill the request, the requested authority no later than 10 calendar days from the date of receipt of the request shall send a notification about this to the requesting authority indicating the reasons for the refusal (partial refusal).

#### **Article 11. Information, provided by the authorized bodies on their own initiative**

Any of the authorized bodies may, on their own initiative, in the absence of a request from another authorized body, provide or provide information that, in their opinion, may be useful to another authorized body in the implementation of the relevant regulatory, supervisory and control functions. At the same time, the provisions of this Agreement will apply if the authorized body, which provides information in accordance with this article, indicates that the transfer of information is carried out under this Agreement.

#### **Article 12. The use of information**

The requesting authority may use the confidential information received under this Agreement, only for the purposes, specified in the request.

#### **Article 13. Ensuring the confidentiality of information**

1. Confidential information, indicated in accordance with article 5 of this Agreement, may not be transferred to any other third party without written consent of the authorized body, provided this information.

2. The authorized bodies shall reduce to a minimum the number of persons who have access to confidential information transmitted for the purpose of execution of this Agreement, limiting the circle of such knowledgeable persons exclusively to employees and specialists who need access to such information for the performance of official duties.

3. When preparing a response to a request, the requested authority shall notify that all or part of the information provided is confidential in accordance with the legislation of the state of the requested authority.

When handling confidential information, the requesting authority shall take the protection measures that are used in relation to its own confidential information..

4. For violation of the conditions provided for in paragraph 1 and item two of paragraph 3 of this article, as well as the illegal use of confidential information received in accordance with this Agreement, the requesting authority, its employees and specialists shall be liable



under the legislation of the state of the requesting authority for the disclosure of their own confidential information.

5. In the event that either Party takes a decision to change the conditions and procedure for protecting confidential information, the authorized body of this member state shall inform the authorized bodies of other member states about these changes.

6. In the event of termination of this Agreement in relation to confidential information transmitted or received during the period of this Agreement, the measures for its use and protection stipulated by article 12 of this Agreement and this article shall continue to be applied until the authorized body that has submitted confidential information, will provide a corresponding notice on their cancellation.

#### **Article 14. Costs associated with the receipt of information**

The authorized bodies shall independently bear the costs associated with the execution of this Agreement in the territory of their state, unless otherwise agreed by them.

In the event if the requested authority considers that it may bear significant expenses associated with execution of the request in accordance with the present Agreement, authorized bodies will agree on preliminary consultations in order to make a fair decision on the allocation of costs for the execution of the request.

### **Chapter 4. Final provisions**

#### **Article 15. Amendments**

By agreement of the Parties, this Agreement may be amended by separate protocols.

#### **Article 16. Conditions for accession to this Agreement**

A state, acceding to this Agreement, shall ensure the level of protection of confidential information equivalent to the level of protection of confidential information provided for by the legislation of the member states.

#### **Article 17. Resolution of disputes**

Disputes between Parties, authorized bodies related to the interpretation and (or) application of this Agreement shall be resolved through consultations and negotiations, including with the assistance of the Eurasian Economic Commission.

If the dispute is not resolved by the Parties authorized by the authorities within 6 months from the date of receipt of the official written request for consultations and (or) negotiations sent by one party to the dispute to the other party to the dispute, either party to the dispute may refer it to the Court of the Eurasian Economic Union.

#### **Article 18. Co-relation of the Agreement with other international treaties**

This Agreement shall not affect the rights and obligations of each of the Parties arising from other international treaties to which member states are parties.

#### **Article 19. Effective Date of this Agreement**

1. This Agreement shall enter into force on the date of receipt by the depositary through diplomatic channels of the last written notice on the implementation by Member States of the domestic procedures necessary for its entry into force, but not earlier than entry into force of the Treaty on the Eurasian Economic Union dated May 29, 2014.

2. This Agreement shall be an international treaty concluded under the Eurasian Economic Union, and is included to the law of the Eurasian Economic Union.

Made in Moscow, on December 23, 2014, in one original copy in the Russian language.

The original copy of this Agreement shall be kept in the Eurasian Economic Commission, which, as the depositary of this Agreement, will send a certified copy to each Party.

For the Government  
of the Republic of Belarus

for the National  
of the Republic of

For the Government  
of the Republic of Kazakhstan

for the National  
of the Republic of

For the Government  
of the Russian Federation

for the Central B  
of the Russian F