

**On approval of the Rules for the management of a stabilization bank, performance of transactions in relation to which special conditions are established, conduct of transactions on the transfer of assets and liabilities of an insolvent bank to a stabilization bank, transfer of assets and liabilities of a stabilization bank to another bank, determined by the authorized body**

*Unofficial translation*

Decree of the Board of the National Bank of the Republic of Kazakhstan dated December 26, 2016 no. 312. Registered with the Ministry of Justice of the Republic of Kazakhstan dated February 9 2017 no. 14785.

*Unofficial translation*

**Footnote. Heading as amended by the Decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019).**

In accordance with the Law of the Republic of Kazakhstan dated August 31, 1995 "On Banks and Banking Activities in the Republic of Kazakhstan" the Board of the National Bank of the Republic of Kazakhstan HEREBY DECREES:

1. To approve the attached Rules for the management of a stabilization bank, performance of transactions in relation to which special conditions are established, conduct of transactions on the transfer of assets and liabilities of an insolvent bank to a stabilization bank, transfer of assets and liabilities of a stabilization bank to another bank, determined by the authorized body.

**Footnote. Clause 1 as amended by the Decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019).**

2. To recognize as invalid regulatory legal acts of the Republic of Kazakhstan, as well as structural elements of certain regulatory legal acts of the Republic of Kazakhstan under the list according to the Annex to this decree.

3. The Department of Financial Market Methodology (Abdrakhmanov N.A.) in accordance with the procedure, established by the legislation of the Republic of Kazakhstan shall ensure:

1) jointly with the Legal Department (Sarsenova N.V.), state registration of this decree with the Ministry of Justice of the Republic of Kazakhstan;

2) direction of this decree to the Republican State Enterprise on the Right of Economic Management "Republican Center of Legal Information of the Ministry of Justice of the Republic of Kazakhstan" for inclusion to the State Register of Regulatory Legal Acts of the

Republic of Kazakhstan, Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan within ten calendar days from the date of state registration with the Ministry of Justice of the Republic of Kazakhstan;

3) Placement of this decree on the official Internet-resource of the National Bank of the Republic of Kazakhstan after its official publication.

4. The Department for the Protection of the Rights of Consumers of Financial Services and External Communications (Terentyev A.L.) shall ensure sending this decree for official publication in printed periodicals within ten calendar days after its state registration with the Ministry of Justice of the Republic of Kazakhstan.

5. Control over execution of this decree shall be entrusted to the deputy Chairman of the National Bank of the Republic of Kazakhstan Smolyakov O.A.

6. This decree shall come into force upon expiry of ten calendar days after the day of its first official publication.

*Chairman  
of the National Bank*

*D. Akishev*

Approved  
by the Decree of the National Bank  
of the Republic of Kazakhstan  
dated December 26, 2016 no. 312

**Rules for the management of a stabilization bank, performance of transactions in relation to which special conditions are established, conduct of transactions on the transfer of assets and liabilities of an insolvent bank to a stabilization bank, transfer of assets and liabilities of a stabilization bank to another bank, determined by the authorized body**

**Footnote. Heading as amended by the Decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019).**

## **Chapter 1. General provisions**

1. These Rules for the management of a stabilization bank, performance of transactions in relation to which special conditions are established, conduct of transactions on the transfer of assets and liabilities of an insolvent bank to a stabilization bank, transfer of assets and liabilities of a stabilization bank to another bank, determined by the authorized body, (hereinafter referred to as the Rules) have been developed in accordance with the Law of the Republic of Kazakhstan dated August 31, 1995 "On Banks and Banking Activities in the Republic of Kazakhstan" (hereinafter referred to as the Law on Banks) and shall determine the procedure for the management of a stabilization bank, performance of transactions in relation to which special conditions are established, conduct of transactions on the transfer of assets and liabilities of an insolvent bank (hereinafter referred to as the bank) to a stabilization bank, transfer of assets and liabilities of a stabilization bank to another bank (hereinafter

referred to as the bank-acquirer), determined by the authorized body for regulation, control and supervision of the financial market and financial organizations (hereinafter referred to as the authorized body).

**Footnote. Clause 1 as amended by the Decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019).**

2. The interim administration for bank management (Interim bank administrator) shall apply to the authorized body for conducting a transaction on the transfer of assets and liabilities of the bank to the stabilization bank, including in case of impossibility to carry out the transaction on simultaneous transfer of assets and liabilities of the bank in the part or in full to other bank (banks).

**Footnote. Clause 2 as amended by the Decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019).**

3. The interim administration for bank management (Interim bank administrator) shall carry out valuation of assets and shall develop an operating plan of the stabilization bank.

**Footnote. Clause 3 as amended by the Decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019).**

## **Chapter 2. Rules for the management of a stabilization bank, performance of transactions in relation to which special conditions are established**

4. The stabilization bank shall carry out its activities in accordance with the operating plan of the stabilization bank, which contains the following information:

1) the share of the bank's loan portfolio in total loans of the banking system, the share of deposits attracted by the bank in the total deposits of second-tier banks;

2) description and information on the valuation of all assets and liabilities of the stabilization bank;

3) description and size of highly liquid assets and demand liabilities;

4) the procedure and conditions for the management of assets and liabilities of the stabilization bank, including through the return (exchange) of assets and (or) the return of liabilities, with a decrease in the level of assets;

5) conditions and procedure for the sale of shares or sale (transfer) of assets (liabilities) to the bank-acquirer;

6) cost estimates of stabilization bank and financial forecast of stabilization bank activities, which include:

balance sheet as of the date of creation of the stabilization bank, compiled on the basis of the bank's data as of the last reporting date;

forecast balance sheet as of the date of completion of stabilization bank activity; profit and loss forecast report; cash flow forecast report.

5. The objectives of the stabilization bank shall be:

1) carrying out the transaction on the transfer of assets and liabilities of the stabilization bank to other bank bank-acquirer;

2) realization of shares of the stabilization bank to the investor on conditions, guaranteeing the increase in own equity of the stabilization bank and its functioning in accordance with requirements of the bank legislation of the Republic of Kazakhstan.

6. The functions of the stabilization bank shall be:

1) managing the assets and liabilities of the stabilization bank, including ensuring the availability of assets in an amount sufficient to cover the risks of assets and fulfillment of liabilities, the presence of liabilities at a level not exceeding the assets of the stabilization bank;

2) servicing and receiving payments on the accepted assets;

3) fulfillment of liabilities subject to requirements, established by clause 4 of article 61-12 of the Law on banks;

4) assessment of the status of accepted assets and measures to improve the quality of assets.

**Footnote. Clause 6 as amended by the decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019).**

7. The stabilization bank in coordination with the authorized body shall carry out transactions with minimum level of risk, specified in clause 8 of the Rules.

8. Transactions of the stabilization bank with minimum risk level shall be recognized:

1) deposits in the National Bank of the Republic of Kazakhstan;

2) deposits in the second-tier banks of the Republic of Kazakhstan subject to one of the following conditions:

The banks have a long-term credit rating at least equal to "BB-" according to the international scale of Standard & Poor's Agency or a rating score of the similar level of one of other rating agencies or the rating score at least equal to "kzBB-" according to the national scale of Standard & Poor's Agency;

The banks are the subsidiary resident banks of the Republic of Kazakhstan, the parent non-resident bank of which has a long-term credit rating at least equal to "AA-" according to the international scale of Standard & Poor's Agency or a rating score of the similar level of one of other rating agencies;

3) deposits in non-resident banks of the Republic of Kazakhstan, which have long-term and (or) short-term individual rating at least equal to "AA-" according to the international

scale of Standard & Poor's Agency or a rating score of the similar level of one of other rating agencies (subject to amounts of the principal debt and accrued remuneration), excluding reserves for possible losses;

4) transactions with state securities of the Republic of Kazakhstan, including "REPO" transactions;

5) transactions with bonds, issued by the governments of foreign states, having a long-term debt rating at least equal to "AA-" of Standard & Poor's Agency or a rating of the similar level of one of other rating agencies.

9. The stabilization bank shall monthly no later than 5 (fifth) day of a month, following the reporting one, shall submit to the authorized body information and data on execution of the operating plan of the stabilization bank.

10. Management of the stabilization bank shall be carried out by the chairman, appointed by the authorized body.

11. The chairman of the stabilization bank in carrying out his functions shall be governed by the Rules, the Charter, the operating plan of the stabilization bank.

12. The Chairman of the stabilization bank shall:

1) carry out management of the current activities of the stabilization bank;

2) ensure carrying out activities of the stabilization bank in accordance with the operating plan of the stabilization bank and monitor its performance;

3) act without power of attorney on behalf of the stabilization bank in relationships with third parties;

4) issue power of attorneys for the right to represent the stabilization bank in its relationships with the third parties;

5) carry out the reception, movement and dismissal of employees of the stabilization bank, apply measures of encouragement and disciplinary sanctions to them, establish the sizes of official salaries of employees of the stabilization bank;

6) approve documents regulating internal activities of the stabilization bank;

7) distribute liabilities as well as area of powers and responsibility among the employees of the stabilization bank;

8) consider proposals of potential investors and offer a proposal to the authorized body.

13. The chairman of the stabilization bank in coordination with the authorized body shall:

1) make a decision on returning the assets and (or) liabilities of the stabilization bank to the bank, if the liabilities are not covered by assets or the size of liabilities exposes the stabilization bank to interest rate risk and liquidity risk;

2) in case of deterioration in the quality of the assets of the stabilization bank, it decides to exchange the asset previously transferred to the stabilization bank for another asset of the bank;

3) make a decision on restructuring of assets to ensure the repayment capacity of the borrowers;

4) make a decision on the conclusion of transactions in respect of which special conditions are established;

5) make amendments and additions to the charter of the stabilization bank.

14. Transactions of the stabilization bank made in an amount exceeding 10 (ten) or more percent of the total assets of the stabilization bank shall be carried out in coordination with the authorized body.

### **Chapter 3. Conditions and procedure for transaction on the transfer and assets and liabilities of the insolvent bank to the stabilization bank**

**Footnote. Heading as amended by the Decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019).**

15. Excluded by the decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019).

16. The transfer of assets and liabilities to the stabilization bank shall be carried out subject to availability of assets in the amount sufficient for covering the transferred liabilities.

17. After determination by the stabilization bank of the volume of accepted assets and liabilities, an agreement on transfer of assets and liabilities shall be signed between the stabilization bank and the bank in two copies in the Kazakh and Russian languages attached with a transfer act.

When executing the transfer act as of the date of transaction on the transfer of assets and liabilities of the bank to the stabilization bank, it shall indicate the following information:

size and list of transferred assets of the bank, indicating the name, inventory number (if any), book value, bank account numbers (if necessary) on which the bank's assets are recorded, documents confirming the bank's ownership (if necessary));

the cost and list of transferred rights of claim on bank loans with the surname, name, patronymic (if any) of the borrower - individual, the name of the borrower - legal entity, the main debt for loans, the dates of conclusion and numbers of bank loan agreements, the duration of bank loan agreements, interest rates on bank loans, accrued and received by the bank amounts of interest on bank loans;

the list and size of the transferred liabilities, including on deposits with the surname, name, patronymic (if any) of individual depositors, names of legal depositors, bank account numbers on which deposit amounts are taken into account, deposit amounts, dates of conclusion and numbers of the agreement on bank account and (or) bank deposit, the term of the agreement, interest rate on the deposit;

a list of transferred databases (including archived paper repositories) that contain information about customers, their operations and operations of the bank, primary documents, customer relationship history and other information necessary for the proper exercise of rights and obligations regarding accepted assets and liabilities.



Footnote. Clause 17 as amended by the Decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019).

18. The transfer of liabilities of the bank to the stabilization bank shall be carried out in compliance with priority to meet the requirements of creditors stipulated by article 74-2 of the Law on banks.

Footnote. Clause 18 as amended by the Decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019).

#### **Chapter 4. Procedure and conditions for the transfer of assets and liabilities by the stabilization bank to the bank-acquirer**

19. The stabilization bank, no later than 5 (five) calendar days from the date of acceptance of assets and liabilities of the bank, shall publish an announcement about searching for a bank-acquirer for the transfer to it assets and liabilities of the stabilization bank, as well as an investor for realization of shares of the stabilization bank.

20. The announcement shall be published in the printed periodicals distributed throughout the territory of the Republic of Kazakhstan, in the Kazakh and Russian languages and shall contain general information about the stabilization bank:

- 1) size, list and types of assets of the stabilization bank;
- 2) size, list and types of liabilities of the stabilization bank;
- 3) requirements applicable to the investor and (or) the bank-acquirer;
- 4) terms and forms for submitting applications for the participation of the bank-acquirer and (or) investors with a preliminary indication of the size, types and prices (price range) of acquired assets and liabilities of the stabilization bank.

21. Within 10 (ten) calendar days from the date of the deadline for the submission of applications for participation, a preliminary selection of potential bank-acquirer and (or) investors shall be required, from which a written obligation to maintain confidentiality and preservation of a business and bank secret shall be required.

22. Within 20 (twenty) calendar days from the date the stabilization bank submits information to the potential acquirer bank and (or) investors about assets and liabilities, potential investors and bank-acquirer shall submit proposals indicating the size, types and prices of acquired assets and liabilities of the stabilization bank.

23. Within 30 (thirty) calendar days from the day the deadline for submission of proposals, the stabilization bank shall generate summary information.

24. The bank-acquirer meets the following requirements:

- 1) it is a participant of the system of obligatory guaranteeing of deposits;
- 2) possesses a license of the authorized body for acceptance of deposits, opening and maintenance of bank accounts of individuals, acceptance of deposits, opening and

maintenance of bank accounts of legal entities, conducting bank loan transactions and cash transactions;

3) does not have outstanding administrative penalties for administrative offenses provided for in parts six, eight of Article 213, Article 227 of the Code of the Republic of Kazakhstan on Administrative Offenses of July 5, 2014, supervisory response measures (except for advisory supervisory response measures) and sanctions applied by the authorized body and (or) the National Bank of the Republic of Kazakhstan, on the date of filing applications;

4) fulfills the prudential standards within last 3 (three) calendar months;

5) has branches for servicing customers of the bank at least in 10 (ten) regional centers, the capital, the city of republican significance.

**Footnote. Clause 24 as amended by the decree of the Board of the National Bank of the Republic of Kazakhstan dated October 29, 2018 no. 246 (shall come into force from January 1, 2019); dated November 19, 2019 no. 203 (effective from 01.01.2020).**

25. The authorized body by results of reviewing the summary information shall make a decision on the choice of the investor or the bank-acquirer of assets and liabilities of the stabilization bank.

26. The transfer of assets and liabilities of the stabilization bank to the bank-acquirer, as well as the relevant documents, shall be executed in the transfer and acceptance act.

The transfer and acceptance act shall contain the following information:

size, list and types of transferred assets of the stabilization bank, indicating the name, inventory number, book value, assessed value, number of accounts on which the assets are recorded, documents confirming the ownership of the stabilization bank;

cost and list of transferred rights of claim on receivables with names, names, patronymics (if any), names of debtors, account numbers, which take into account the amounts of receivables, loan amounts, dates of conclusion and numbers of bank loan agreements, validity periods of bank loan agreements, interest rates on a bank loan, accrued and received by the stabilization bank amounts of interest on a bank loan;

the size of the transferred liabilities on deposits of individuals and legal entities, the list of deposits indicating the names, names, patronymics (if any) of depositors - individuals, names of depositors - legal entities, account numbers on which the deposit amounts are taken into account, deposit amounts, conclusion dates and numbers of bank account agreements and (or) bank deposit, term of the agreement, interest rate on the deposit, accrued and received by depositors of the amount of interest on the deposit;

a list of transferred databases (including archived paper repositories) that contain information about customers, their operations and operations of the bank, primary documents, customer relationship history and other information necessary for the proper exercise of rights and obligations regarding accepted assets and liabilities.



27. When transfer of the liabilities of the stabilization bank on deposits of individuals and legal entities, customers' money shall be credited to the bank-acquirer to the bank accounts newly opened by it.

28. Information on the transaction on the transfer of assets and liabilities and (or) the sale of shares of the stabilization bank shall be published by the authorized body in printed periodicals distributed throughout the territory of the Republic of Kazakhstan in Kazakh and Russian, and on the official website of the authorized body within 7 (seven) calendar days from the date of transaction.

Annex  
to the Decree of the Board of the National  
Bank  
of the Republic of Kazakhstan  
dated December 26, 2016 no. 312

**List of regulatory legal acts of the Republic of Kazakhstan, as well as structural elements of certain regulatory legal acts of the Republic of Kazakhstan, recognized as invalid**

1. Decree of the Board of the Agency of the Republic of Kazakhstan for regulation and supervision of the financial market and financial organizations dated August 5, 2009 no. 183 "On approval of the Rules for management of a stabilization bank, conclusion of transactions in respect of which special conditions are established, and termination of the stabilization bank" (registered with the Register of State Registration of Regulatory Legal Acts as no. 5784 , published on October 9, 2009 in the newspaper "Yuridicheskaya Gazeta" no. 154 (1751)).

2. Clause 7 of the List of Regulatory Legal Acts of the Republic of Kazakhstan on the issues of regulation of activities of second-tier banks, to which amendments and additions are made, approved by the decree of the Board of the Agency of the Republic of Kazakhstan for regulation and supervision of the financial market and financial organizations dated January 31, 2011 no. 8 "On amendments and additions to certain regulatory legal acts of the Republic of Kazakhstan on the issues of regulation of activities of second-tier banks" (registered with the Register of State Registration of Regulatory Legal Acts as no. 6795, published on October 7, 2011 in the Collection of central executive and other central state bodies of the Republic of Kazakhstan, no. 11)).

3. Clause 6 of the List of Regulatory Legal Acts of the Republic of Kazakhstan on the issues of regulation of bank activities, to which amendments and additions are made, approved by the decree of the Board of the National Bank of the Republic of Kazakhstan dated February 25, 2013 no. 74 "On amendments and additions to certain regulatory legal acts on the issues of regulation of bank activities " (registered with the Register of State Registration of Regulatory Legal Acts as no. 8436, published on June 12, 2013 in the newspaper "Yuridicheskaya Gazeta" no. 85 (2460)).

