



**On approval of the Rules and distinctions for participation of the insurant in investments or profit of the insurer, and the Requirements for the content of the insurance contract, stipulating the conditions of participation of the insurant in investments or profit of the insurer, the Terms and Conditions of the transfer by the insurance organization of assets generated from a part of insurance premiums, received from the insurants for investment purposes, and incomes (losses) made from their investment in investment management to the manager of investment portfolio that is not an insurance organization**

*Invalidated Unofficial translation*

Resolution of the Board of the National Bank of the Republic of Kazakhstan dated August 27, 2018 №. 190. Registered in the Ministry of Justice of the Republic of Kazakhstan on September 21, 2018 № 17399.

*Unofficial translation*

**Footnote. It became invalid by the resolution of the Board of the Agency of the Republic of Kazakhstan for regulation and development of the financial market No. 59 dated 25.05.2020 (it is put into effect after ten calendar days after the date of its first official publication).**

In accordance with the laws of the Republic of Kazakhstan “On Insurance Activities” dated December 18, 2000, “On the Securities Market” dated July 2, 2003, “On Investment Funds” dated July 7, 2004 the Board of the National Bank of the Republic of Kazakhstan **HEREBY RESOLVES:**

1. That the following shall be approved:

1) the Rules and distinctions for participation of the insurant in investments or profit of the insurer according to Annex 1 to this resolution;

2) the Requirements for the content of the insurance contract, stipulating the conditions of participation of the insurant in investments or profit of the insurer, according to Annex 2 to this resolution;

3) the Terms and Conditions of the transfer by the insurance organization of assets generated from of a part of insurance premiums, received from the insurants for investment purposes, and incomes (losses) made from their investment in investment management to the manager of investment portfolio that is not an -insurance organization, according to Annex 3 to this Resolution.

2. Resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Supervision of the Financial Market and Financial Organizations No. 134 “On Approval of the Rules for Participation of Insurant in the Investment or Profit

of the Insurance Organization” dated September 3, 2010 (registered in the Register of State Registration of Regulatory Legal Acts under No. 6540, published in newspaper “Kazhstanskaya Pravda”, No. № 303-305 (26364-26366) on November 11, 2010).

3. In accordance with the procedure established by the legislation of the Republic of Kazakhstan, the Department of Regulation of Non-Bank Financial Institutions (A. M. Kosherbayeva) shall:

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

2) within ten calendar days of the state registration of this resolution, send it in Kazakh and Russian to Republican State Enterprise with the Right of Economic Management “Republican Center of Legal Information” for its official publication and inclusion into the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan;

3) place this resolution on the official website of the National Bank of the Republic of Kazakhstan after its official publication;

4) within ten working days of the state registration of this resolution, submit the information on the implementation of measures, provided for in subparagraphs 2), 3) of this paragraph and paragraph 4 of this resolution, to the Legal Department.

4. Within ten calendar days of the state registration of this resolution, the Directorate of Protection of the Rights of Consumers of Financial Services and External Communications (A.L. Terentyev) shall send its copy to print periodicals for official publication.

5. Control over execution of this resolution shall be entrusted to the Deputy Chairman of the National Bank of the Republic of Kazakhstan, Zh.B. Kurmanov.

6. This resolution shall take effect on October 1, 2018 and be subject to official publication.

*Chairman of the National Bank*

*D. Akishev*

Annex 1 to  
Resolution No 190  
of the Board of the  
National Bank of the  
Republic of Kazakhstan  
dated  
August 27, 2018

## **Rules and distinctions for participation of the insurant in investments or profit of the insurer**

### **Chapter 1. General provisions**

1. These Rules and distinctions for participation of the insurant in investments or profit of the insurer (hereinafter referred to as the Rules ) have been developed in accordance with the Civil Code of the Republic of Kazakhstan (Special Part), laws of the Republic of Kazakhstan “On Insurance Activities” dated December 18, 2000 ( hereinafter referred to as the Law on Insurance Activities), “On the Securities Market” dated July 2, 2003 (hereinafter referred to as the Law on the Securities Market), “On the State Regulation, Control and Supervision of the Financial Market and Financial Organizations” dated July 4, 2003, On Investment Funds dated July 7, 2004 ( hereinafter referred to as the Law on Investment Funds) and determine the procedure and features of participation of the insurant in investments or profit of the insurer.

These Rules shall apply to:

insurance companies licensed in the “Life Insurance” sector, concluding insurance contracts providing for the condition of participation of the insurant in the investments or profit of the insurer;

insurance companies licensed in the “Life Insurance” sector and licensed for the management of the investment portfolio activities in the securities market, concluding insurance contracts providing for the condition of participation of the insurant in investments or profit of the insurer;

professional securities market participants licensed for management the investment portfolio activities on the securities market.

2. The following basic definitions shall be used for the purposes of this Rules:

1) current value factor – the sum of the products of survival indicators of the insurant from the age at the date of the calculation of the annuity to the age of receiving insurance payments for the year and the discounting factor to appropriate degree, equal to the inverse of the amount of the effective interest rate of return used to calculate the amount of insurance payments, and 1;

2) investment contract – insurance contract between the insurance company and the insurant and providing for the condition of participation of the insurant in investments insurance premium for which consists of the risk and funded part;

3) investment declaration – document determining the list of investment objects, goals, strategies, conditions and restrictions of investment activities in relation to the fund (external funds) assets, terms of hedging and diversification of fund (external funds) assets;

4) manager of investment portfolio – a professional participant in the securities market licensed for management the investment portfolio activities in the securities market for management an investment portfolio and that is non- insurance organization ;

5) investment fund created by the manager of investment portfolio (hereinafter referred to as the external fund) – mutual investment fund that is not a closed mutual

investment fund created in the accordance with the Law on investment funds by the manager of investment portfolio that is not an insurance organization;

6) investment insurance account – conditional account of the insurant in the system of analytical accounting of operations of the insurance organization including all subaccounts of the insurant, opened in accordance with the terms of these Rules;

7) investment risk – risk associated with investing the funded part of insurance premiums under investment contracts;

8) share – nominal issue security of the non-documentary form of issue, confirming the share of its owner in the fund (external fund), the right to receive money obtained from the sale of the fund (external fund) assets and (or) other property in the case provided by the Law on investment funds upon termination of its existence, as well as other rights associated with the peculiarities of the activities of mutual investment funds determined by the Law on investment funds;

9) profit sharing agreement – insurance contract concluded between the insurance organization and the insurant and providing for the condition of the insurant participation in the profit of the insurance organization, the payment for which is made on the basis of the results of the completed financial year;

10) insurance event– the event when the insurance contract, providing for the condition of the participation of the insurant in investments or profit of the insurer, provides for the payment of insurance;

11) funded part of the insurance premium – part of the insurance premium received from insurants for investment purposes and incomes (losses), received from their investments, under investment contracts;

12) risk part of the insurance premium – part of the insurance premium covering the risk of death of the insurant, administrative expenses of the insurance organization;

13) insurance payment – amount of money paid by the insurance organization to the insurant (beneficiary) in the manner and the times specified in the insurance contract, stipulating the condition for participation of the insured in investments or profit of the insurer;

14) investment fund of insurance organization (hereinafter referred to as the Fund) – mutual investment fund in accordance with the Law on Investment Funds, non-closed-end mutual fund and created by an insurance organization, licensed for the portfolio management activities in the securities market (hereinafter referred to as the portfolio management license) at the expense of assets of insurants;

15) contract on insurers asset– contract on management of investment portfolio, whereby insurance company transfers the funded part of the insurance premium to manager of investment portfolio, and manager of investment portfolio is obliged to invest these assets in external fund shares selected by the insurant;

16) assets of the insurant – the amount of money generated by the insurance company at the expense of the funded part of insurance premiums;

17) application of the insurant – an agreement of the insurant on the implementation by the insurance organization on behalf of the insured of the actions stipulated by these Rules being the integral part of the investment contract;

18) subaccount of the insurant (hereinafter referred to as the subaccount) – register of analytical accounting, which is conducted by the insurance organization within the framework of investment insurance account of the insurant in the context of funds (external funds) and which reflects all changes made in the number of shares in the respective fund (external fund), as well as information stipulated by the investment contract;

19) internal order – insurance document, which regulates the conditions and procedure for the participation of the insured in the funds, as well as the procedure for the formation of funds.

## **Chapter 2. Investment Contract**

3. The investment contract shall be concluded between an insurance company and the insurant in a voluntary form.

Investment risks associated with investing the assets of the insurant shall be borne by the insurant.

When concluding an investment contract an insurance company shall manage the assets generated from a part of the insurance premiums received from the insured for investment purposes, and incomes (losses) received from their investing, independently or transfer them to the investment management to manager of investment portfolio that is not an insurance organization. In the case of attracting the manager of investment portfolio, the latter shall place the assets of the insurant in external fund (external funds), selected by the insurant, in the terms stipulated by the conditions of the investment contract, which is an integral part of the contract on the insured asset management.

Shares acquired by an insurance organization and / or manager of investment portfolio (in case of attraction), shall be credited to the accounts of insurants in the register of securities holders (nominal holding) at the expense of whose assets they were acquired.

4. The operations of crediting and debiting shares of funds (external funds) to the insurant's investment insurance account, and other operations (such as crediting the funded part of the insurance premium to the insurant's investment insurance account, operations carried out at the expense of the insurant's assets, partial redemption of shares of fund (external fund) carried out by an insurance company solely, on the basis of an investment contract and statements of the insurant.

5. An insurance company, prior to entering into an investment contract, shall present for inspection to the insurant:

- 1) a copy of the Rules;
- 2) a copy of the Regulations of the fund (external fund);
- 3) a copy of internal order;
- 4) the name of the manager of investment portfolio (in case of attraction);
- 5) the name and type of fund (external fund);
- 6) a copy of the investment declaration on the basis of which the funds are formed (external funds);
- 7) the information about the current value of fund share (external fund);
- 8) the information about the amount of remuneration of the insurance organization and (or) manager of investment portfolio.

6. An insurance organization with a license to manage an investment portfolio shall create one or more funds for the purpose of investing assets of insurants.

7. External funds where the assets of the insured are invested, shall be created by the manager of investment portfolio independently or by agreement with the insurance organization.

When creating an external fund by agreement with the insurance organization, in shares of which it is supposed to invest the assets of the insurants, the draft of the fund Regulations shall be agreed with this insurance organization.

External fund investment declaration, created by an agreement with the insurance organization, shall be developed by the manager of investment portfolio and be subject to agreement with the board of directors of the insurance organization and shall be an integral part of the investment contract.

8. Investment declaration of the fund and / or external fund, created by agreement with the insurance organization, shall be developed for each fund (external fund) and shall include the information provided by paragraph 1 of article 39 of the Law “On Investment Funds”.

9. The insurant, at the conclusion of the contract with participation in the investment with the insurance organization licensed to manage an investment portfolio, shall select a fund in which he/she participates in investments or an external fund, including created by the manager of investment portfolio in coordination with an insurance organization.

The insurant shall participate in one or several funds or external funds simultaneously.

An insurance organization and / or manager of investment portfolio (in case of attraction) shall allocate the assets of the insurant to the fund and / or external fund selected by the insurant in the manner and time stipulated by the terms of the investment contract.

10. The insurant, at the conclusion of the contract with participation in the investment with the insurance company non-licensed for portfolio management, shall select an external fund including created by the manager of investment portfolio by agreement with the insurance organization.

The insurant shall participate in one or several external funds simultaneously.

The manager of investment portfolio shall place the assets of the insurant in an external fund selected by the insurant within the time frame stipulated by the terms of the investment contract.

11. The transfer of the insured assets by the insurance organization to the manager of investment portfolio shall be carried out on the basis of the agreement on the management of the insured assets.

12. Investing the assets of the insureds in the shares of the fund or an external fund shall be carried out on behalf of the insureds.

13. The funded part of the insurance premiums paid by the insurant under the contract with participation in the investment shall be taken into account on the insured's investment account.

The size of the risk part of the insurance premium, insurance premium payments under the investment contract shall be determined by the investment contract.

14. In the case of termination of the investment contract, the insurance company shall close the investment insurance account of the insurant (and all sub-accounts associated with this account) and shall form the amount to be paid.

15. In the case of termination of the investment contract with occurrence of the insured event, the amount of the insurance premium shall be set equal to the account balance specified in the investment contract.

An insurance payment shall be made in the terms established by the contract with participation in profit.

16. The amount of the insurance payment under the investment contract shall be determined as follows:

1) in case of death - the amount of insurance payment shall be set equal to the amount of the sum insured and the redemption value of the insured's investment insurance account;

2) in case of survival until the end of the insurance period or survival before the date of commencement of annuity payments - the amount of insurance payment shall be set equal to the redemption value of the insurant's investment insurance account;

3) in case of survival with subsequent annuity insurance – regular insurance payments shall be set equal to the redemption value of the insurant's investment insurance account, multiplied by the reciprocal of the current value factor in the corresponding age of the insured;

4) in case of early termination of the investment contract – the amount of insurance payment shall be set equal to the amount of the redemption value of the investment insurance account of the insured on the date of the insurance payment minus the costs due to early termination of the investment contract.

The value of costs shall be set in the investment contract.

17. If at the date of termination of the investment contract in the subaccounts of the investment insurance account of the insurant there will not be a share registered, in this case the insurance company shall close the investment insurance account of the insurant without forming the redemption value of the insurant's investment insurance account. The amount of the sum to be paid to the insurant shall be determined in this case by the terms of the contract with participation in the investment.

### **Chapter 3. Profit sharing contract**

18. The contract with participation in profit shall be concluded between the insurance organization and the insurant in a voluntary form.

19. The insurance company, before entering into a contract with participation in profit, shall present the following to the insurant for acquaintance:

- 1) a copy of the Rules;
- 2) conditions, procedure and terms of distribution of profit of the insurance organization;
- 3) the information on the amount of remuneration of the insurance organization.

20. The decision on the amount of profit of the insurance organization, distributed among the insurants, shall be made by the board of directors of the insurance organization.

Annex 2  
to  
Resolution No 190  
of the Board of the National Bank of the  
Republic Kazakhstan dated August 27, 2018

### **Requirements for the content of the insurance contract, stipulating the conditions of participation of the insurant in investments or profit of the insurer**

1. These Requirements for the content of the insurance contract, stipulating the conditions of participation of the insurant in investments or profit of the insurer ( hereinafter referred to as the Requirements) have been developed in accordance with The Law of the Republic of Kazakhstan “On Insurance Activities” dated December 18, 2000 (hereinafter referred to as the Law) and establish the requirements for the content



of the insurance contract, concluded between an insurance organization and the insurant and stipulating the conditions of participation of the insurant in insurer's investments or profit.

2. The insurance contract, stipulating the conditions of insured participation in investments, in addition to the information specified in paragraph 1 of Article 826 of the Civil Code of the Republic of Kazakhstan (Special Part) dated July 1, 1999 (hereinafter referred to as the Civil Code), shall contain the following information:

1) the size of risk and funded part of the insurance premium (insurance contributions);

2) the size and procedure for charging fees by insurance company and manager of investment portfolio (in case of attraction);

3) the conditions and procedure for managing the assets of insurants by an insurance organization;

4) the conditions and procedure for transfer of insurers assets to the manager of investment portfolio (in case of attraction);

5) procedure and objects of investment of the insured assets;

6) the names and types of funds and / or external funds where the assets of the insured will be invested;

7) rights, obligations and liability of insurance organization and the insurant;

8) conditions and procedure for termination of the fund (external fund).

3. An insurance contract providing the condition of participation of the insurant in profit of the insurer, in addition to the information specified in paragraph 1 of Article 826 of the Civil Code, shall contain the following information:

1) the conditions, procedure and terms of distribution of profit of the insurance organization;

2) rights, obligations and liability of the insurance organization and the insurant;

3) the size and procedure for charging by the insurance company.

Annex 3

to

Resolution No 190

of the Board of the National Bank of the  
Republic Kazakhstan dated August 27, 2018

**The Terms and Conditions of the transfer by the insurance organization of assets generated from a part of insurance premiums, received from the insurants for investment purposes, and incomes (losses) made from their investment in investment management to the manager of investment portfolio that is not an insurance organization**

1. These Terms and Conditions of the transfer by the insurance organization of assets generated from a part of insurance premiums, received from the insureds for investment purposes, and incomes (losses) made from their investment in investment management to the manager of investment portfolio that is not an insurance organization (hereinafter referred to as the Order) have been developed in accordance with The Law of the Republic of Kazakhstan “On Insurance Activities” dated December 18, 2000 (hereinafter referred to as the Law) and establish the Terms and Conditions of the transfer by the insurance organization of assets generated from a part of insurance premiums, received from the insureds for investment purposes, and incomes (losses) made from their investment in investment management to the manager of investment portfolio that is not an insurance organization.

2. Transfer of assets by the insurance organization, formed by part of insurance premiums, received from insureds for investment purposes, and incomes (losses) made from their investment to the manager of investment portfolio, that is not an insurance (reinsurance) organization, shall be carried out on the basis of contract on asset management of insureds.

3. Under the insurers' asset management contract, the funded part of the insurance premium shall be transferred by the insurance company in trust management of the manager of investment portfolio in order to combine them with the money of other investors in an external fund and their subsequent investment according to the Rules of the external fund.

4. The manager of investment portfolio shall acquire shares of external fund on behalf of the insured.

Shares acquired by the manager of investment portfolio shall be credited to the personal accounts of insureds in the register of securities holders (nominal holding), at the expense of assets of which they have been acquired.

5. The manager of investment portfolio shall ensure an inclusion to the insureds asset management contract the conditions for the daily submission to the insurance organization the information on:

- 1) the list of investment objects;
- 2) the amount of money allocated to the investment object;
- 3) the amount of investment income received for each investment object;
- 4) the accrued investment income on formed external funds.