

On approval of a model agreement on the implementation of activities under a special regulatory regime

Unofficial translation

Resolution of the Board of the National Bank of the Republic of Kazakhstan of September 27, 2018 No. 226. Registered with the Ministry of Justice of the Republic of Kazakhstan on October 29, 2018 No. 17629.

Unofficial translation

In accordance with the Law of the Republic of Kazakhstan of March 30, 1995 "On the National Bank of the Republic of Kazakhstan", the Board of the National Bank of the Republic of Kazakhstan **HEREBY RESOLVED AS FOLLOWS:**

1. To approve the attached Model Agreement on the implementation of activities under a special regulatory regime.

2. With the procedure established by the legislation of the Republic of Kazakhstan, the Department of Financial Market Methodology (Salimbayev D.N.) shall ensure:

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

2) within ten calendar days from the date of state registration of this resolution, sending the copy hereof both in Kazakh and Russian languages to the Republican State Enterprise on the Right of Economic Management "Republican Center for Legal Information" for official publication and inclusion into the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan;

3) the placement of this resolution on the official Internet resource of the National Bank of the Republic of Kazakhstan after its official publication;

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

3. within ten calendar days after the state registration of this resolution, the Directorate for the Protection of the Rights of Consumers of Financial Services and External Communications (Terentiev A.L.) shall ensure the direction of the copy hereof to official publication in periodicals.

4. The control over the execution of this resolution shall be entrusted to Deputy Chairman of the National Bank of the Republic of Kazakhstan Smolyakova O.A.

5. This resolution shall enter into force upon the expiry of ten calendar days after the day of its first official publication.

Approved
by Board Resolution
of the National Bank
of the Republic of Kazakhstan
No.226 of September 27, 2018,

Model Agreement on the implementation of activities under the special regulatory regime

Footnote. Model Agreement as amended of the resolution of the Management Board of the Agency for Regulation and Development of the Financial Market of the Republic of Kazakhstan dated 30.03.2020 No. 28 (shall enter into force upon expiry of ten calendar days after the day of its first official publication); dated 28.12.2020 No. 128 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

№ _____ " ____ " _____ 20____

_____,
(full name of the legal entity and location)

being a resident of the Republic of Kazakhstan, hereinafter referred to as the "Participant,"
represented by the first leader

(position, surname, first name, patronymic (if any)

acting on the basis of the Charter, on the one hand and

(name of the authorized body for regulation, control and supervision of the financial market and financial organizations) hereinafter referred to as the "authorized body," represented by the Chairman (Vice-Chairman) _____ acting on the basis of the Law of the Republic of Kazakhstan dated July 4, 2003 "On state regulation, control and supervision of the financial market and financial organizations" (hereinafter referred to as the Law), on the other hand, hereinafter collectively referred to as the "Parties," have entered into this Agreement on the performance of activities under a special regulation regime (hereinafter referred to as the agreement) in accordance with paragraph 2 of Article 13 -4 of the Law, on the basis of the decision of the Management Board of the authorized body dated " ____ " _____ 20____ on the following:

1. The Subject of the Agreement

1. The subject of the Agreement is the implementation by the Participant _____

(description of the types of activities carried out by the Participant under the special regulation regime).

2. For the purposes of the Agreement, a special regulatory regime shall be the implementation of activities in the financial sector, activities related to the concentration of financial resources and (or) with payment services.

3. The participant shall carry out the activities specified in paragraph 1 of the agreement under the special regulation regime in accordance with the business plan submitted to the authorized body and being an integral part of the agreement, in compliance with the requirements of the financial legislation of the Republic of Kazakhstan.

4. The number of consumers shall not exceed _____.

5. The volume of obligations assumed by the Participant under a special regulatory regime, shall not exceed KZT _____.

6. During the term of the Agreement, the following rules shall not apply to the activities of the Participant carried out under the special regulation regime:

_____.
(specify the norms of the Laws of the Republic of Kazakhstan of August 31, 1995 "On banks and banking activities in the Republic of Kazakhstan," dated December 23, 1995 "On mortgage of real estate," dated December 18, 2000 "On insurance activities," dated July 2, 2003 "On the Securities Market," dated July 6, 2004 "On credit bureaus and the formation of credit histories in the Republic of Kazakhstan," dated November 26, 2012 "On microfinance activities," dated June 21, 2013 "On pension provision in the Republic of Kazakhstan," dated July 26, 2016 "On payments and payment systems," dated July 2, 2018 "On currency regulation and currency control" and regulatory legal acts of the National Bank of the Republic of Kazakhstan and the authorized body adopted in accordance with these laws).

2. Rights and Obligations of the parties

7. The authorized body may:

1) demand from the Participant proper and timely fulfillment of obligations under the Agreement;

2) to receive from the Participant information and documents necessary for monitoring the fulfillment by the Participant of the obligations assumed under the Agreement;

3) unilaterally terminate the agreement in the cases stipulated by the first paragraph of paragraph 6 of Article 13-4 of the Law;

4) extend the term of the Agreement on the basis of the Participant's request for the extension of the term of the Agreement;

5) exercise other rights provided for by the legislation of the Republic of Kazakhstan.

8. The participant shall have the right to:

1) to operate within the framework of a special regulatory regime under the conditions established by the legislation of the Republic of Kazakhstan and the Agreement;

2) apply to the authorized body with an application to amend the terms of the agreement and (or) with a request to extend the term of the agreement within the period specified in Paragraph 22 of the agreement.

9. The authorized body shall:

1) monitor the fulfillment by the Participant of the obligations assumed under the Agreement and compliance with the requirements of the financial legislation of the Republic of Kazakhstan;

2) if the participant fails to comply with the obligations stipulated by the agreement, send a written notice to the Participant on the need to eliminate the revealed violations within the period provided for by second part of paragraph 6 of Article 13-4 of the Law; "

3) consider the application of the Participant to change the terms of the Agreement and (or) an application for the extension of its validity period and send the results of the review within the period specified in paragraph 22 of the Agreement;

4) fulfill in good faith and properly the duties prescribed by the laws of the Republic of Kazakhstan and the Agreement.

10. The participant shall:

1) bring to the consumer's attention the following information on (about):

activities carried out by the Participant under the special regulation regime;

possible risks associated with the activities of the Member under the special regulation regime;

conditions of activities under the special regulation regime, the procedure for activities, cost (rates, tariffs), the list of necessary documents determined by the internal rules of the Participant for concluding an agreement with the consumer on activities under the special regulation regime (hereinafter, the agreement with the consumer);

location, postal and electronic addresses, Internet resource and contact phone numbers of the participant;

2) carry out activities in accordance with the goals of introducing a special regulation regime in accordance with paragraph 2 of Article 13-3 of the Law, the terms of the Agreement and the business plan submitted to the authorized body;

3) fulfill obligations to their consumers in accordance with the procedure established by agreements with consumers;

4) provide the necessary information on activities carried out within the framework of the special regulation regime, at the request of the authorized body;

5) submit to the authorized body during the term of the Agreement monthly, no later than the fifth (5) working day of the month, information on the interim results of the activities, including information on (about):

the number of concluded agreements with consumers (in the context of individuals and legal entities);

the volume of obligations assumed under agreements with consumers;

deficiencies identified during activities under the special regulation regime (if any);

nature of complaints from consumers (if any);

risks identified during activities under the special regulatory regime;

6) in case of receipt of a written notification of the authorized body on non-fulfillment of obligations specified in the Agreement, eliminate violations and (or) reasons, as well as conditions that contributed to their commission, in the manner prescribed by paragraph 6 of Article 13-4 of the Law;

7) ensure the confidentiality of information and information obtained during the implementation of activities under the special regulation regime;

8) in case of assignment (alienation) of the share of the share capital of the Participant to the new owner, notify the authorized body of the planned transaction at least two (2) months before its completion;

9) no later than the tenth (10) working day from the date of expiration of the agreement, submit to the authorized body information on the results of activities under the special regulation regime, containing the following information:

description of the participant's activities;

number of attracted consumers, volume of operations, assumed obligations;

risks identified in the course of activities under the special regulation regime, their impact on consumers and the main activities of the participant;

proposals to amend and (or) add the legislation of the Republic of Kazakhstan, necessary for the implementation of activities;

10) notify its consumers in writing within 5 (five) working days of the termination of the agreement in the cases specified in paragraph 14 of the agreement;

11) conscientiously and properly fulfill the obligations stipulated by the Laws of the Republic of Kazakhstan and the Agreement.

3. Responsibilities of the Parties

11. For non-fulfillment or improper fulfillment of the terms of the Agreement, the Parties shall be liable under the laws of the Republic of Kazakhstan and the Agreement.

12. The Participant shall be responsible for all risk arising during and as a result of performance of activities under the agreement.

4. Terms of amendment, addition, cancellation and termination of the Agreement

13. Amendments and (or) additions to the Agreement shall be made by mutual written consent of the Parties and shall be executed in the form of an additional agreement, which is an integral part of the Agreement.

14. The Agreement shall be terminated:

1) upon termination of the special regime of regulation in connection with the expiration of the period for which it is introduced, or its cancellation;

2) upon expiration or early termination of the Agreement;

3) in other cases stipulated by the civil legislation of the Republic of Kazakhstan or the Agreement.

15. Early termination of the Agreement shall be allowed by agreement of the Parties.

5. Dispute Resolution Procedure

16. In the event of disputes and disagreements in the process of fulfillment of obligations under the Agreement, the Parties shall be obliged to take all necessary measures to resolve them out of court.

17. Unresolved disputes and disagreements of the Parties under the Agreement shall be considered by the courts of the Republic of Kazakhstan in accordance with the legislation of the Republic of Kazakhstan.

18. The parties shall not exempt from the fulfillment of the obligations established by the Agreement until the full settlement of disputes and disagreements.

6. Term of the Agreement

19. The Agreement shall be concluded for a period from "" _____ 20__ to " " _____ 20__ .

20. The term of the agreement shall not exceed the term of the special regulation regime introduced by the decision of the Board of the authorized body.

21. The validity period of the agreement shall be extended by mutual agreement of the Parties and shall not exceed the period established by paragraph 4 of Article 13-3 of the Law.

22. The application for extension of the agreement term shall be submitted to the authorized body no later than sixty (60) calendar days before the expiration of the agreement term and shall be considered within thirty (30) calendar days from the date of its receipt by the authorized body.

23. The Agreement shall come into force from the date of its signing by the Parties.

7. Final provisions

24. Legal relations of the Parties, not stipulated by the Agreement, shall be governed by the laws of the Republic of Kazakhstan.

25. When changing the location and/or actual address, the participant shall submit a written notice to the authorized body within 7 (seven) working days from the date of the change.

26. The agreement shall be executed in Kazakh and Russian in 2 (two) copies having the same legal force, of which 1 (one) copy is with the authorized body, 1 (one) copy is with the Participant.

27. The Agreement has been signed " ____ " _____ 20__ by authorized representatives of the Parties.

8. Details and Signatures of the Parties

<div>" _____ "</div> <div>(name of the authorized body for regulation, control and supervision of the financial market and financial organizations)</div> <div>_____</div> <div>_____</div> <div>(location, business identification number, bank identification code, individual identification code, beneficiary code)</div> <div>_____</div> <div>(signature)</div> <div>Place of sealing</div>	<div>Participant</div> <div>_____</div> <div>_____</div> <div>(Member's name, location and actual address, telephone , fax, E-mail, business identification number, bank identification code, individual identification code, beneficiary code)</div> <div>_____</div> <div>(signature)</div>
---	---