



On some issues of establishing a prohibition on the provision of preferential conditions to the persons tied with a bank, a branch of a non-resident bank of the Republic of Kazakhstan by special relations

Unofficial translation

Resolution of the Board of the National Bank of the Republic of Kazakhstan of October 29, 2018 No. 273. Registered in the Ministry of Justice of the Republic of Kazakhstan on November 26, 2018 No. 17781.

Unofficial translation

Footnote. The title is in the wording of the Resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market dated 24.02.2021 No. 43 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

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), the Board of the National Bank of Kazakhstan **HEREBY RESOLVED** as follows:

1. For the purposes of part two of paragraph 1 of Article 40 of the Law, the amount of loans without collateral (blank loans) issued by the bank to the affiliated person shall not exceed KZT 20 (twenty) million) on the date of the bank's decision to issue a loan.

2. For the purposes of part three of paragraph 1 of Article 40 of the Law, the amount of bank loans and financing provided by subparagraphs 4) and 5) of paragraph 1 of Article 52-5 of the Law, issued by the bank to board members and major participants of the bank shall not exceed 0.02 (zero point, zero two) per cent of the bank's own capital at the date of the bank's decision to issue a loan or financing.

3. For the purposes of subparagraph 5) of paragraph 2 of Article 40 of the Law, the value of the transaction or aggregate of transactions of the bank (for the current financial year) with an affiliated person of the bank shall be more than 0.1 (zero point one) percent of the bank's own capital, excluding transactions or a set of transactions for the acquisition of shares or shares in the authorized capital of legal entities, the value of which shall exceed 10 (ten) percent of the bank's own capital, at the date of the bank's decision to make a transaction or combination of transactions.

4. For the purposes of part two of Article 40, paragraph 2, of the Law, to establish the following additional criteria for assigning transactions to concessional transactions:

1) bank loan operations with the borrower – an individual and legal entity without attaching the information about the borrower (co-borrower, guarantor, guarantor and pledge holder) in accordance with the bank's internal documents;

2) bank loan operations with the borrower – an individual and legal entity without the determination of the loan purpose in the contract of the bank, corresponding to the borrower's needs (except for consumer crediting and crediting for replenishment of circulating assets, syndicated loans with the participation of banks-non-residents of the Republic of Kazakhstan) ;

3) bank loan operations with the borrower – an individual and legal entity without determination of the borrower's liability for improper use of money in the contract of the bank (except consumer crediting and crediting for replenishment of circulating assets, syndicated loans with participation of banks-non-residents of the Republic of Kazakhstan).

5. For the purposes of subparagraph (1) of Article 40, paragraph 3, of the Law, to establish the following amounts of bank loans and bank guarantees, decisions on extradition of which shall be the responsibility of managers and permanent members of the committees of the Board of Directors and the corresponding body of the bank, upon exceeding of which these persons shall be recognized as affiliated persons of the bank:

0.7 (zero point seven) percent of the bank's own capital (on the date of the bank's decision)-for banks with the size of their own capital up to KZT 100,000,000,000 (one hundred billion) inclusive;

0.5 (zero point five) percent of the bank's own capital (on the date of the bank's decision)-for banks with the size of their own capital over KZT 100,000,000,000 (one hundred billion)

6. For the purposes of subparagraph 5) of paragraph 3 of Article 40 of the Law to establish the following signs of the relationship of an affiliated individual or legal entity of the bank:

1) a borrower (an individual and legal entity), belonging to a group of borrowers of the bank, unified in such group in accordance with the requirements of maximum risk on one borrower, in which one of the borrowers of such group is an affiliated person of the bank;

2) the borrower (an individual and legal entity), the transaction with whom is carried out in violation of the internal procedures of the bank in compliance with the requirements for assessing creditworthiness and (or)security of such transaction;

3) an individual and legal entity who have concluded a transaction with the bank, which shall provide for the provision of an affiliated person of the bank, with the exception of guarantees (guarantor), guarantee letters of credit of banks with a debt rating at the level of " BBB"and higher Standard & Poor's agency or rating of similar level of rating agencies Moody's Investors Service and Fitch.

The Requirements of subparagraphs 1) and 2) of the first part of this paragraph shall apply to cases when the size of transactions of the bank with the specified persons shall be:

2 (two) and more percent of the bank's own capital (at the date of decision)-for banks with the size of their own capital up to KZT 100,000,000,000 (100 billion) inclusive;

1 (one) and more percent of the bank's own capital (at the date of decision)-for banks with the size of their own capital over KZT 100,000,000,000 (100 billion).

7. For the purposes of part three of paragraph 3 of Article 40 of the Law to determine the following other persons not tied with the bank by special relations:

- 1) National Chamber of Entrepreneurs of the Republic of Kazakhstan;
- 2) associations (unions) of banks;
- 3) associations of legal entities in the form of an association (unions) with the participation of banks;
- 4) Joint Stock Company "Kazakhstan Sustainability Fund";
- 5) Joint Stock Company "Unified accumulative pension fund";
- 6) Single operator of housing construction;
- 7) Joint Stock Company "Kazakhstan Deposit Guarantee Fund";
- 8) credit bureaus;
- 9) international financial organizations;
- 10) state institutions;
- 11) persons who are not recognized as affiliated persons in accordance with international treaties ratified by the Republic of Kazakhstan;
- 12) spouse (wife) and close relatives of the independent director of the bank;
- 13) a legal entity in which the independent director of the bank is an official;
- 14) a legal entity in which an independent director of the bank owns ten or more percent of the outstanding shares (minus preferred and repurchased shares) or stakes in the authorized capital;
- 15) a legal entity in which the persons specified in subparagraph 12) of this paragraph own ten or more percent of the outstanding shares (minus preferred and repurchased shares) or stakes in the authorized capital or are officials.

Footnote. Paragraph 7 is in the wording of the Order of resolution of the Board of the National Bank of the Republic of Kazakhstan dated 11.11.2019 No. 183 (shall be enforced upon expiry of ten calendar days after the day of its first official publication); as amended by the Resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market dated 24.08.2020 No. 76 (shall be enforced from the date of its first official publication).

8. For the purposes of paragraph 4 of Article 40 of the Law, the transaction value shall exceed 0.02 (zero point, zero two) percent of the bank's own capital at the date of the bank's decision on the transaction, except for the acquisition of shares or assets of participation in the authorized capital of legal entities, the value of which shall exceed 10 (ten) percent of the bank's own capital at the date of the bank's decision on the transaction.

9. The requirements of this resolution shall apply to branches of non-resident banks of the Republic of Kazakhstan, taking into account the specifics established by Article 40 of the Law and this paragraph, bank holding companies (with the exception of non-residents of the

Republic of Kazakhstan, which are a bank holding company or a person with signs of a bank holding company, and comply with the requirements of paragraph 9 Article 40 of the Law) and organizations carrying out certain types of banking operations.

The board of directors of a branch of a non-resident bank of the Republic of Kazakhstan means the relevant management body of a non-resident bank of the Republic of Kazakhstan, and the independent director of a branch of a non-resident bank of the Republic of Kazakhstan means an independent director of a non-resident bank of the Republic of Kazakhstan.;

The own capital of a branch of a non-resident bank of the Republic of Kazakhstan means assets accepted as a reserve, calculated in accordance with the Prudential standards and other mandatory norms and limits for branches of banks-non-residents of the Republic of Kazakhstan (including branches of Islamic banks-non-residents of the Republic of Kazakhstan), their normative values and calculation methods, including the procedure for the formation of assets of branches of banks-non-residents of the Republic of Kazakhstan (including branches of Islamic banks-non-residents of the Republic of Kazakhstan), accepted as a reserve, and their minimum amount, approved by the Resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market dated February 12, 2021 No. 23 registered in the Register of state registration of regulatory legal acts under No. 22213.

Footnote. Paragraph 9 - is in the wording of resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market dated 24.02.2021 No. 43 (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

10. In accordance with the legislation of the Republic of Kazakhstan, the Bank Supervision Department (O. T. Kizatov) 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 from the date of State registration of this resolution, send a copy hereof both in Kazakh and Russian languages 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 official publication and inclusion in the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan;

3)) place this resolution on the 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, submit to the Legal Department the information on the implementation of measures provided for in subparagraphs 2), 3) of this paragraph and paragraph 11 of this resolution.

11. The Directorate for the Protection of the Rights of Consumers of Financial Services and External Communications (A.L. Terentyev) shall, within ten calendar days after the state registration of this resolution, send its copy for the official publication in periodicals.

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

13. This resolution shall enter into force from January 1, 2019 and shall be subject to official publication.

Chairman of the National Bank

D. Akishev