



On determination of the list of mandatory conditions for a microcredit agreement

Invalidated Unofficial translation

Resolution of the Board of the National Bank of the Republic of Kazakhstan of October 29, 2018 No. 264. Registered with the Ministry of Justice of the Republic of Kazakhstan on December 7, 2018 No. 17886.

Unofficial translation

Footnote. Expired by resolution of the Board of the National Bank of the Republic of Kazakhstan No. 232 dated 29.11.2019 (effective from 01.01.2020).

This resolution will come into force on January 1, 2019.

In accordance with paragraph 3 of Article 4 of the Law of the Republic of Kazakhstan dated November 26, 2012 "On Microfinance Organizations", the Board of the National Bank of the Republic of Kazakhstan hereby **RESOLVES**:

1. Approve the enclosed list of mandatory conditions for a microcredit agreement.
2. In accordance with the procedure established by the legislation of the Republic of Kazakhstan, the Consumer Protection Office of Financial Services and External Communications (A.T. Terentyev) shall:
 - 1) jointly with the Legal Department (Sarsenova N.V.), 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 its copy in paper and electronic form both in the Kazakh and Russian languages to the Republican State Enterprise on the Basis of the Right of Economic Management "Republican Center of Legal Information" 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 calendar days after the state registration of this resolution, send its copy to official publication in the periodic printed publications for official publication;
 - 5) within ten calendar days after the official publication of this resolution, submit to the Legal Department the information on execution of activities, provided by subparagraph 2), 3) and 4) of this paragraph.
3. Supervising Deputy Chairman of the National Bank of the Republic of Kazakhstan Smolyakov O.A. shall be authorized to oversee the implementation of this decree.
4. This decree shall be enforced from January 1, 2019 and shall be subject to official publication.

The list of mandatory conditions for a microcredit agreement

1. For the purposes of this List of mandatory conditions for a microcredit agreement (hereinafter referred to as the - list), the following concepts shall be used:

1) co-borrower - an individual or legal entity acting under a microcredit agreement as jointly and severally responsible for fulfilling the obligations of a microcredit;

2) agreement on the provision (opening) of a credit line - a microcredit agreement, concluded on terms that allow the borrower to determine himself/herself in the agreement (s), which is (are) the integral part (parts) of the agreement on the provision (opening) of a credit line , the amount and time of receiving a microcredit, but within the limits of the amount and time determined by the rules for granting microcredits and the agreement on provision (opening) a credit line;

3) microcredit agreement (hereinafter referred to as the - agreement) - an agreement in accordance with which, a microfinance organization provides a microcredit to a borrower;

4) remuneration - payment for the provided microcredit, determined in percentage terms to the amount of microcredit at the rate of the annual amount of money owed to the microfinance organization.

2. The agreement shall contain the conditions established by the legislation of the Republic of Kazakhstan for the agreements of a corresponding type, the conditions determined by agreement of the parties, as well as the following mandatory conditions:

- 1) general conditions of an agreement;
- 2) a borrower rights;
- 3) microfinance organization rights;
- 4) microfinance organization responsibilities;
- 5) restrictions for microfinance organizations;
- 6) liability of the parties for violation of obligations;
- 7) procedure for amending conditions of an agreement.

The text of the agreement shall be printed on A4 sheets, in font - "Times New Roman" of at least 12, with the usual letter length, single line spacing and the use of indentation, except for the approximate conditions of the agreement , published in periodicals in accordance with the requirement of Article 388 of the Civil Code of the Republic Kazakhstan (General part) dated December 27, 1994.

The conditions provided by subparagraphs 6) and 7) of part one of this paragraph, if they are indicated in the agreement on the provision (opening) of credit line, shall not require additional indication in the agreement.

3. General conditions of the agreement shall include:

- 1) date of conclusion of the contract;
- 2) name of microfinance organization and surname, name and patronymic (if available) of a borrower (co-borrower) - an individual or name of a borrower (co-borrower) - a legal entity;
- 3) purpose of a microcredit, when issuing a target microcredit;
- 4) amount of a microcredit;
- 5) repayment period of a microcredit;
- 6) interest rate in percent per annum, the size of the annual effective interest rate (real value of microcredit) calculated in accordance with Resolution No. 378 of the Board of the National Bank of the Republic of Kazakhstan dated December 24, 2012 "On Approval of the Rules for Calculating the Annual Effective Interest Rate on Provided Microcredits" (registered in the Register of State Registration of Regulatory Legal Acts under No. 8307), on the date of the conclusion of the agreement;
- 7) method of repayment of a microcredit (in cash, non-cash order, as a lump sum or in parts);
- 8) microcredit repayment method: annuity or differentiated, or another method in accordance with the rules of microcredit provision;
- 9) level of debt seniority on microcredit;
- 10) procedure for calculating and amount of penalties (fines, penalties) for untimely repayment of principal debt and payment of interest;
- 11) a complete list of commissions and other payments, as well as their amounts to be charged in connection with the issuance and maintenance of microcredit;
- 12) ensuring the fulfillment by borrower of obligations under the agreement (if available);
- 13) measures taken by a microfinance organization in the event of nonperformance or improper performance by borrower of obligations under the agreement ;
- 14) term of the agreement;
- 15) information on postal and electronic address of microfinance organization, as well as data about its official Internet resource (if available);
- 16) condition that when a microfinance organization assigns a right (claim) under a contract to a third party, the requirements and restrictions imposed by the legislation of the Republic of Kazakhstan on the relationship of lender with the borrower under the agreement apply to the borrower's legal relationship with the third person to whom the right (claim) shall be assigned.

The conditions specified in subparagraphs 1), 2), 3), 4), 5), 6), 7), 8), 9), 10), 11), 12), 13) and 14) of this paragraph and in subparagraph 6) of paragraph 2 of the List shall be reflected from the first page of the agreement in specified sequence.

When granting a microcredit by concluding an agreement on provision (opening) of a credit line:

the agreement on provision (opening) a credit line shall comply with the requirement of the second part of paragraph 2 of the List;

total amount and total term of the microcredit shall be specified in the agreement on provision (opening) of the credit line;

conditions provided by subparagraphs 1), 2), 3), 4), 5), 6), 8), 11) and 14) of this paragraph shall be specified in the agreement in specified sequence;

conditions provided by subparagraphs 7), 9), 10), 12), 13) and 15) of this paragraph , if they are indicated in the agreement on provision (opening) of a credit line, shall not require an additional indication in the agreement. .

If the agreement stipulates that its individual conditions are determined by the sample conditions of the part of the agreement containing the signatures of microfinance organization and a borrower, it shall meet the requirements of the second part of paragraph 2 of the List and shall contain the conditions provided by subparagraphs 1), 2), 3), 4), 5) , 6), 8), 10), 11), 12) and 14) of this paragraph, starting from the first page of the agreement in specified sequence.

4. The rights of a borrower shall contain the conditions providing the possibility of:

1) getting acquainted with the rules of microcredit, tariffs of the microfinance organization for provision of a microcredit;

2) disposing the received microcredit in the manner and under the conditions established by the agreement;

3) if the date of repayment of the principal debt and (or) remuneration falls on a weekend or a holiday, making payment of principal and (or) remuneration on the next working day without paying a penalty and other types of penalties;

4) returning to microfinance organization of the amount of microloan provided under the agreement in full or in part, without payment of a penalty or other types of penalties;

5) an individual borrower, to apply to a bank ombudsman in case of a microfinance organization assignment rights (claims) under an agreement concluded with this borrower to resolve disagreements with the person specified in paragraphs 4 and 5 of Article 9-1 of the Law of the Republic of Kazakhstan dated November 26 2012 "On Microfinance Organizations";

6) applying in writing to the microfinance organization in the event of a dispute over the services received.

The conditions provided by this paragraph, if they are indicated in the agreement on the provision (opening) of the credit line, shall not require an additional indication in the agreement.

5. The rights of a microfinance organization shall contain the conditions providing for the possibility of:

1) unilaterally reducing the rates of remuneration, the size of tariffs and fees associated with the issuance and servicing of microcredits in force at the date of signing the agreement;

2) demanding early repayment of the amount of microcredit and remuneration on it in case of violation by the borrower of the period established for the return of the next part of the microcredit and (or) the payment of remuneration for more than forty calendar days.

The conditions provided by this paragraph, if they are indicated in the agreement on the provision (opening) of the credit line, shall not require an additional indication in the agreement.

6. Obligations of a microfinance organization shall include the conditions that require:

1) when concluding an agreement containing the conditions for transferring the right (claim) of a microfinance organization under a microcredit agreement to a third party (hereinafter referred to as the - claim assignment agreement), notify the borrower (or his/her authorized representative):

prior to the conclusion of claim assignment agreement on the possibility of transferring rights (claims) to a third party, as well as on processing the personal data of the borrower in connection with such assignment in the manner provided for in the agreement or not contrary to the laws of the Republic of Kazakhstan;

on transferred of the right (claim) to a third party in the manner provided for in the agreement or not contrary to the legislation of the Republic of Kazakhstan, within thirty calendar days from the date of conclusion of the agreement of assignment of the right of claim with an indication of the purpose of further payments to redeem microcredit transferred the right (claim) under the agreement), the full amount of the transferred rights (claims), as well as the balances of overdue and current principal amounts, remuneration, fees, penalties (fine, penalty) and other amounts payable;

2) in the case of a borrower applying to a microfinance organization with a written request in case of a dispute over the services received, shall provide an answer in writing. Microfinance organizations related to the large business entities shall consider appeals of individuals and (or) legal entities within the terms established by Article 8 of the Law of the Republic of Kazakhstan dated January 12, 2007 "On the Procedure for Considering Appeals of Individuals and Legal Entities";

3) on annex to the agreement of the microcredit repayment schedule signed by the parties, containing:

number and date of the contract;

microcredit amount;

maturity date and size of the next payments, indicating the amount of the microcredit repayment and remuneration and their total value;

balances of microcredit amounts on the date of the next repayment;

overall microcredit totals and remunerations to be paid, and their total value;

date of the microcredit repayment schedule;

a list of microloan repayment methods proposed by a microfinance organization with a mark of the individual on the selected method by the borrower.

When conditions of a microcredit change, entailing a change in the amount (size) of the borrower's monetary obligations and (or) their payment terms, the microfinance organization shall draw up and issue a new microcredit repayment schedule to the borrower in the light of new conditions.

The requirements of this subparagraph shall not apply to the microcredit issued for a period of less than one month, as well as an agreement on provision (opening) of a credit line.

The conditions provided by subparagraphs 1) and 2) of this paragraph, if they are indicated in the agreement on provision (opening) of a credit line, shall not require an additional indication in the contract.

7. Restrictions for microfinance organization shall contain conditions that prohibit to:

1) unilaterally change the rates of remuneration in effect at the date of signing the agreement, the size of tariffs and fees related to the issuance and servicing of microcredits, in the direction of their increase, as well as the way and method of repayment of the microcredit;

2) unilaterally introduce new types of fees and other payments in the framework of the concluded agreement;

3) apply to the borrower, who is an individual, to return to the microfinance organization the amount of the microloan, penalties for the early return of the microloan, in full or in part;

4) charge a penalty or other types of fine sanction in case the date of repayment of the principal debt or remuneration falls on a weekend or a holiday, and the payment of remuneration or principal debt shall be made on the next working day;

5) for the indexation of liabilities and payments on microcredit issued in tenge, with reference to any currency equivalent.

The conditions provided by this paragraph, if they are indicated in the agreement on the provision (opening) of the credit line, shall not require an additional indication in the agreement.

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