

On approval of the Rules for applying the supervisory response measures to legal entities operating exclusively through exchange offices on the basis of a license of the National Bank of the Republic of Kazakhstan for exchange operations with foreign currency in cash, and to legal entities whose exclusive activity is the collection of banknotes, coins and valuables

Unofficial translation

Resolution of the Managing Board of the National Bank of the Republic of Kazakhstan dated December 31, 2019 No. 266. Registered with the Ministry of Justice of the Republic of Kazakhstan on January 14, 2020 No. 19871.

Unofficial translation

In accordance with subparagraph 18) of the third part of Article 15 of the Law of the Republic of Kazakhstan "On national bank of the Republic of Kazakhstan," the Board of the National Bank of the Republic of Kazakhstan hereby **RESOLVED**:

Footnote. The preamble - as amended by the resolution of the Board of the National Bank of the Republic of Kazakhstan No. 38 dated 22.05.2023 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

1. To approve the attached Rules for applying the supervisory response measures to legal entities operating exclusively through exchange offices on the basis of a license of the National Bank of the Republic of Kazakhstan for exchange operations with foreign currency in cash, and to legal entities whose exclusive activity is the collection of banknotes, coins and valuables.

2. The Department of Cash Circulation, in accordance with the procedure, established by the legislation of the Republic of Kazakhstan, shall ensure:

1) jointly with the Legal Department, state registration of this resolution with the Ministry of Justice of the Republic of Kazakhstan;

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

3) within ten working days after state registration of this resolution, submission to the Legal Department of information about implementation of measures, stipulated by subclause 2) this clause and clause 3 of this resolution.

3. The Department of External Communications – press-service of the National Bank shall ensure within ten calendar days after the state registration of this resolution, submission of its copy to the official publication to the printed periodicals.

4. Control over execution of this resolution shall be entrusted to the deputy Chairman of the National Bank of the Republic of Kazakhstan Galiyev D.T.

5. This resolution is subject to official publication and shall come into force from January 1, 2020.

*Chairman
of the National Bank*

Ye. Dossayev

Approved by the resolution
of the Managing Board of the National
Bank
of the Republic of Kazakhstan
dated December 31, 2019 No. 266

Rules

for applying the supervisory response measures to legal entities operating exclusively through exchange offices

on the basis of a license of the National Bank of the Republic of Kazakhstan for exchange operations with foreign currency in cash,

and to legal entities whose exclusive activity is the collection of banknotes, coins and valuables

Chapter 1. General provisions

1. These Rules for the application of supervisory response measures to legal entities operating exclusively through exchange offices on the basis of the license of the National Bank of the Republic of Kazakhstan for exchange transactions with cash foreign currency, and legal entities whose exclusive activity shall be the collection of banknotes, coins and valuables, (hereinafter referred to as the Rules) have been developed in accordance with the Administrative Procedural Code of the Republic of Kazakhstan (hereinafter referred to as the APCRK), the laws of the Republic of Kazakhstan "On national bank of the Republic of Kazakhstan" (hereinafter referred to as the Law on the national bank), "On banks and banking activities in the Republic of Kazakhstan" (hereinafter referred to as the Law on banks and banking activities), "On currency regulation and currency control" (hereinafter referred to as the Law on Currency regulation and currency control) and shall determine the procedure for application by the National Bank of the Republic of Kazakhstan (hereinafter referred to as the National Bank) supervisory response measures to legal entities operating exclusively through exchange offices on the basis of the national bank's license for foreign currency exchange transactions, and legal entities whose exclusive activity shall be the collection of banknotes, coins and valuables.

Footnote. Paragraph 1 - as amended by the resolution of the Board of the National Bank of the Republic of Kazakhstan dated 22.05.2023 No. 38 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

2. The supervisory response measures, specified by subclauses 1) and 2) clause 4 of article 45-1 of the Law on banks and banking activities, shall apply in accordance with clause 4-1 of article 45-1 of the Law on banks and banking activities, subclause 2) of clause 2 of article 22 of the Law on currency regulation and currency control.

3. The National Bank shall apply the following supervisory response measures to the persons, indicated in clause 1 of the Rules:

- 1) advisory supervisory response measures;
- 2) measures on improving the financial condition and (or) minimizing risks.

4. When determining reasonability of applying supervisory response measures and the choice of a supervisory response measure, factors, provided for in clause 3 of article 45-1 of the Law on banks and banking activities shall be considered.

5. The National Bank shall keep records of the applied supervisory response measures and places information on the applied supervisory response measures (except for recommendatory supervisory response measures) on its official Internet resource in the Kazakh and Russian languages.

5-1. The national bank, in accordance with Article 66 of the APCRK, shall send to legal entities, carrying out activities exclusively through exchange offices on the basis of a license of the National Bank of the Republic of Kazakhstan for exchange transactions with cash foreign currency, and legal entities whose exclusive activity shall be the collection of banknotes, coins and valuables, a preliminary decision on the application of a supervisory response measure, executed in the form of a draft supervisory response measure, with notice of the place and time of the hearing to enable them to express their position by prior decision.

A preliminary decision on the application of the supervisory response measure and notification of the place and time of the hearing are sent at least three (3) working days before the decision on the application of the supervisory response measure.

Legal entities operating exclusively through exchange offices on the basis of the license of the national bank of the Republic of Kazakhstan for exchange operations with cash foreign currency, and legal entities whose exclusive activity shall be the collection of banknotes, coins and valuables, provide or object to a preliminary decision on the application of a supervisory response measure within the period established by Part 3 of Article 73 of the APCRK.

Footnote. The Rules as added by the paragraph 5-1 in accordance with the resolution of the Management Board of the National Bank of the Republic of Kazakhstan dated 22.05.2023 No. 38 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

5-2. In accordance with Article 96 of the APCRK, filing a complaint shall not suspend the implementation of the applied supervisory response measures (except for advisory supervisory response measures).

Footnote. The rules as added by the paragraph 5-2 in accordance with the resolution of the Management Board of the National Bank of the Republic of Kazakhstan dated 22.05.2023 No. 38 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

6. Excluded by the Resolution of the Board of the National Bank of the Republic of Kazakhstan dated 22.02.2021 No. 19 (shall enter into force from 01.07.2021).

Chapter 2. Recommended supervisory response measures

7. The National Bank shall apply recommended supervisory response measures to persons specified in clause 1 of the Rules, in cases, specified in clause 1 of article 45-2 of the Law on banks and banking activities, subclause 2) of clause 2 of article 22 of the Law on currency regulation and currency control.

8. The supervisory response of advisory measure shall be executed by a letter from the national bank in accordance with the requirements set forth in Article 80 of the APCRK and shall contain the grounds for applying this measure and notification of identified deficiencies, risks or violations and (or) recommendations for addressing identified deficiencies, risks or violations, and (or) warning of the possibility of applying other supervisory response measures in case of re-identification by the national bank of deficiencies, risks or violations, as well as failure to comply with advisory supervisory response measures.

Footnote. Paragraph 8 - as amended by the resolution of the Board of the National Bank of the Republic of Kazakhstan dated 22.05.2023 No. 38 (shall enter into force upon expiry of ten calendar days after the day of its first official publication).

9. The National Bank shall send a recommendatory supervisory response measure to the person specified in clause 1 of the Rules, and, if necessary, determined by the National Bank, to individual governing bodies of the person specified in clause 1 of the Rules.

Chapter 3. Measures for improving financial condition and (or) minimizing risks

10. For the purposes of elimination of deficiencies, risks or violations, the National Bank shall apply measures for improving financial condition and (or) minimizing risks to persons specified in clause 1 of the Rules.

11. Measures for improving financial condition and (or) minimizing risks shall apply in the form of a written instruction or a written agreement.

12. The National Bank shall indicate in the written instruction for acceptance of binding measures, established by clause 1 of article 46 of the Law on banks and banking activities, and (or) the need to submit, within the time period specified in the written instruction, an action plan for their implementation (hereinafter referred to as the action plan).

13. The action plan contains a description of the deficiencies, risks or violations, the reasons that led to their occurrence, a list of planned actions, the timing of their implementation, as well as responsible executives for the implementation of each clause of the action plan.

14. The National Bank shall consider an action plan submitted by the person to whom measures have been taken to improve the financial condition and (or) minimize risks, within a

period not exceeding 10 (ten) working days after the date of its receipt by the National Bank. If there are comments of the National Bank on the submitted action plan and (or) if the volume of planned events exceeds 20 (twenty) events, the term for consideration of the action plan shall be extended only once for no more than 10 (ten) working days.

If there are comments of the National Bank to the action plan submitted by the person to whom measures to improve the financial condition and (or) minimize risks have been applied, the National Bank shall send written comments on it and (or) holds joint discussions in order to finalize the action plan. In this case, the person to whom measures have been applied to improve the financial condition and (or) minimize risks, shall submit a revised action plan taking into account the comments of the National Bank within the time frame specified in the letter of the National Bank, or in case of disagreement with such comments, shall submit his/her justifications.

The National Bank, in writing, shall or shall not approve the action plan submitted by the person to whom measures have been applied to improve the financial condition and (or) minimize risks.

If the National Bank approves the submitted action plan, the person to whom measures have been taken to improve the financial condition and (or) minimize risks shall start its implementation.

In case of disapproval of the action plan, the National Bank shall apply measures to improve the financial condition and (or) minimize risks to the person to whom measures to improve the financial condition and (or) minimize risks, indicating the measures established in clause 1 of article 46 of the Law on banks and banking activities.

15. The National Bank shall make a written agreement about execution of measures, established in clause 1 of article 46 of the Law on banks and banking activities with the person, indicated in clause 1 of the Rules.

16. The written agreement shall provide for an agreement on the execution of measures, indicated in clause 1 of article 46 of the Law on banks and banking activities, deadlines for eliminating identified deficiencies, risks or violations and (or) a list of restrictions that the person who is subject to measures to improve the financial condition and (or) minimize risks.

The written agreement is subject to mandatory signing by the person to whom measures have been taken to improve the financial condition and (or) minimize risks. After signing a written agreement, the person to whom measures have been taken to improve the financial condition and (or) minimize risks shall undertake obligations to fulfill its conditions in full and within the deadlines specified in it.

17. The written agreement is drawn up in 4 (four) copies (2 (two) copies in Kazakh and Russian languages), having the same legal force, and is sent with a cover letter to the address of the person to whom measures to improve the financial condition and (or) minimize risks.

The person to whom the measures to improve the financial condition and (or) minimize the risks have been applied shall return to the National Bank the signed 2 (two) copies (1 (one

) copy in Kazakh and Russian languages) of the written agreement within 5 (five) working days after the date it has been received.

18. The person to whom the measures to improve the financial condition and (or) minimize the risks have been applied shall notify the National Bank about:

execution of the measures specified in a written instruction, written agreement, within the time frame provided for by these documents;

execution of the activities provided for in the action plan no later than 5 (five) working days after the date of their implementation provided for in the action plan.

19. The execution by the person to whom measures to improve the financial condition and (or) minimize the risks, measures and measures provided for in a written instruction and (or) action plan, written agreement are applied, begins for:

1) written instruction - from the date of receipt of a written instruction by the person to whom measures were taken to improve the financial condition and (or) minimize risks;

2) action plan - from the date of receipt of the action plan approved by the National Bank by the person to whom measures were applied to improve the financial condition and (or) minimize risks;

3) written agreement - from the date of signing the written agreement by the person to whom measures were applied to improve the financial condition and (or) minimize risks.

If the deadlines for the implementation of measures and (or) planned measures set in a written instruction and (or) action plan, written agreement exceed 1 (one) month, the person to whom measures to improve financial condition and (or) minimize risks have been applied shall notify in writing on a monthly basis National Bank on the phased implementation of measures and (or) measures provided for in a written instruction and (or) an action plan, a written agreement, attached with copies of supporting documents.

20. If it is impossible to fulfill the measures and (or) measures provided for in the written instruction and (or) the action plan, the written agreement, within the deadlines established by these documents, for reasons beyond the control of the person to whom the measures were applied to improve the financial condition and (or) to minimize risks, this person, no later than the deadline for the implementation of measures and (or) measures established by these documents, submits to the National Bank a petition to extend the period for the implementation of measures and (or) measures provided for in a written order and (or) plan of measures, a written agreement (hereinafter referred to as the petition), containing the justification for the need to extend the time limit.

The National Bank shall send the results of consideration of the petition to the person to whom measures have been taken to improve the financial condition and (or) minimize risks, within a period not exceeding 10 (ten) working days after the date of its receipt by the National Bank.

