



On the return of illegally acquired assets to the state

Unofficial translation

The Law of the Republic of Kazakhstan dated July 12, 2023 № 21-VIII.

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This Law, in the interests of current and future generations of Kazakhstanis, regulates public relations for identification and return to the state of illegally acquired assets (hereinafter referred to as asset recovery) in order to restore the violated rights of the people of Kazakhstan, ensure the rule of law, social justice, sustainable economic and social development of Kazakhstan for the benefit of its people.

Chapter 1. GENERAL PROVISIONS

Article 1. Basic concepts used in this Law

For the purposes of this Law, the following basic concepts are used:

- 1) a bona fide acquirer - a person who is not affiliated with the persons specified in Article 2 of this Law, who acquired property for a fee and on market conditions and at the same time did not know and should not have known that the property belongs to illegally acquired assets;
- 2) a bona fide creditor - a person who is not affiliated with the persons specified in Article 2 of this Law, who has property rights claims arising from transactions with these persons secured by their property, including lenders, as well as tenants;
- 3) assets – property goods and rights (property) located in the Republic of Kazakhstan and abroad, including any property goods and rights (property) extracted (being extracted) from such property;
- 4) authorized body for asset recovery – a department of the Prosecutor's Office of the Republic of Kazakhstan for asset recovery;
- 5) asset conversion – any form of material, financial or legal change and (or) transformation of an asset, its form or type, partial or complete attachment of an asset to another asset, regardless of the method of such change and (or) transformation or attachment, including the conversion of currency, currency values, securities or other financial instruments from one type to another, conversion of securities or other financial instruments into equity interests, conversion of other assets into other types of assets, exchange of an asset for another asset, the sale of an asset in exchange for the payment of a sum of money or other consideration and other actions similar in their orientation;
- 6) control over the asset (hereinafter referred to as control) – the ability to manage the asset in any way directly or indirectly and (or) the ability to determine the legal fate of the

asset in any way, including indirectly and on any basis through one or more persons and organizations during the period when the assets were or presumably were owned, used, possessed and (or) controlled by a person (a group of persons);

7) nominal owner of an asset – a person exercising the rights of the owner (owner, user) of an asset in the interests and (or) on behalf of another person;

8) administrative and power resources (connections, influence) - the ability of a person to influence the adoption of regulatory legal acts of the Republic of Kazakhstan or decisions (acts, actions, inaction) of state bodies of the Republic of Kazakhstan, as well as decisions of bodies of state enterprises and institutions, quasi-public sector entities, other organizations with direct or indirect participation of the state in the authorized capital in order to create favorable non-competitive conditions for conducting business activities of the relevant entity and (or) its affiliated persons;

9) social projects – projects in the field of healthcare, education, support for socially vulnerable groups of the population, persons with disabilities, orphans, children left without parental care, rural youth, unemployed, communal and socio-cultural infrastructure facilities for the needs of residents of single-industry towns, rural settlements and other projects determined by the Government of the Republic Kazakhstan;

10) illegally acquired assets – assets subject to return to the state in connection with their recognition by the court on the grounds provided for by this Law as assets of unexplained origin;

11) assets of unexplained origin – assets of the entity and (or) its affiliated persons, the correspondence of the value of which to the amount of legitimate income or other legitimate sources of covering the costs of acquiring such assets of the relevant person has not been proved by him to the court in accordance with the procedure established by the legislation of the Republic of Kazakhstan;

12) persons having kinship relations – parents (parent), children and their spouses, adoptive parents (adoptive parents) and their spouses, the adopted (adopted) and their spouses, full- and half-siblings and their spouses, grandfather, grandmother, grandchildren, great-grandchildren and their spouses, great-grandfather, great-grandmother;

13) excess income – income received as a result of the use (with the use) of administrative and power resources (connections, influence), the conditions for obtaining and the amount of which is established in accordance with this Law.

Article 2. Scope of this Law

1. This Law is valid on the territory of the Republic of Kazakhstan in respect of individuals – citizens of the Republic of Kazakhstan, foreigners and stateless persons, legal entities registered on the territory of the Republic of Kazakhstan, including the territory of the Astana International Financial Center, legal entities registered outside the Republic of Kazakhstan, as well as foreign structures without the formation of a legal entity, regardless of the country of their establishment (registration), that own, use, possess or control or

presumably have (had) assets on the territory of the Republic of Kazakhstan or assets outside the Republic of Kazakhstan acquired with funds (income) illegally obtained in the Republic of Kazakhstan.

2. This Law applies to citizens of the Republic of Kazakhstan regardless of their location and presence (absence) in their ownership, possession or control of assets on the territory of the Republic of Kazakhstan.

3. This Law applies to foreigners and stateless persons, regardless of their location and the presence (absence) of assets in their ownership, possession or control in the territory of the Republic of Kazakhstan, if such persons previously permanently resided in the territory of the Republic of Kazakhstan or were tax residents of the Republic of Kazakhstan.

Part one of this paragraph applies to the assets of these persons illegally acquired by them or their affiliated persons during their permanent residence in the territory of the Republic of Kazakhstan or tax residence of the Republic of Kazakhstan.

4. This Law applies to foreigners and stateless persons who are (were) affiliated persons of the persons specified in part one of paragraph 3 of this Article.

This Law also applies to foreigners, stateless persons, legal entities registered outside the Republic of Kazakhstan, as well as foreign structures without the formation of a legal entity, regardless of the country of their establishment (registration), including those who are (were) affiliated and (or) related persons of the persons specified in paragraphs 1 – 3 of this Article, and (or) directly or indirectly having (had) or directly or indirectly allegedly having (had) owned, used, possessed or controlled assets in the territory of the Republic of Kazakhstan or assets outside the Republic of Kazakhstan acquired with funds (income) illegally obtained in the Republic of Kazakhstan, or which acquired assets from the persons specified in paragraphs 1-3 of this article.

5. Taking into account the provisions provided for in paragraphs 1-4 of this Article, the rules of this Law on the recovery of illegally acquired assets to the state income are applied to persons who meet the following criteria:

1) individuals in respect of whom from the sources provided for by this Law, there is information (in aggregate) on (hereinafter referred to as the subject):

the fact that this person is (was) a person holding a responsible public position, positions involving the performance of managerial functions in a state legal entity or a quasi-public sector entity, and (or) the presence (including previously available) of administrative and power resources (connections, influence) in relation to persons holding (who held) a responsible public position, and (or) persons performing (had performed) managerial functions in a state legal entity or a quasi-public sector entity;

receipt (including directly or through affiliated persons, including legal entities, whose shares (shares in the authorized capital) are owned by an individual) of assets and (or) income (including from previously received assets) as a result of the use (with the use of) of administrative and power resources (connections, influence);

2) individuals and legal entities affiliated with the subjects.

6. Affiliated persons of subjects are individuals and (or) legal entities related to the subjects or among themselves for one of the following reasons, having and (or) having had the opportunity to directly and (or) indirectly or otherwise determine decisions (actions, inaction) and (or) have any influence on the decisions (committed actions, inaction) taken by each other (one of the persons):

1) persons having family relations, spouse (spouse), including former spouse (spouse), persons having family relations with spouse (spouse), including persons having family relations with former spouse (spouse);

2) relatives, relatives of the spouse (spouse), as well as relatives of the former spouse (spouse);

3) persons who are dependent on an individual or who run a joint household with him;

4) individuals, legal entities and associations (organizations) without the formation of a legal entity, regardless of the country of their establishment (registration), in respect of which the entity or other individual provided for in this article has the actual ability to determine actions, including the ability to give instructions to them, to persons who, by virtue of a law, other legal act or constituent document, are authorized to act on their behalf, and also members of the governing bodies of a legal entity or association (organization) without the formation of a legal entity;

5) persons otherwise acting on behalf of and (or) in the interests of entities and persons affiliated with them, including persons who are trustees of the property of such entities and persons affiliated with them, as well as other purchasers, nominal or actual owners of the assets of these entities and persons affiliated with them;

6) persons who own, use or dispose property on the basis of an agreement and (or) other agreement with entities and persons affiliated with them;

7) persons having common property with entities and persons affiliated with them;

8) individuals and legal entities associated with entities and persons affiliated with them by common commercial and economic interests;

9) a legal entity that is directly and (or) indirectly controlled by entities and (or) persons affiliated with them;

10) persons involved in the creation of trust funds and (or) other similar structures, as well as in the ownership and (or) management of trust funds and (or) other similar structures, including their founders, financial organizations, including banks, beneficiaries, managers and other persons related to the trust and other similar structure of management and (or) ownership and (or) use of assets;

11) other individuals and (or) legal entities recognized by the commission as affiliated with entities and persons affiliated with them.

7. Subject to the provisions provided for in paragraphs 1-6 of this Article, the provisions of this Law on the inclusion of persons in the register, filing declarations on disclosure of

assets, as well as on the conversion of assets of such persons into state ownership in connection with recognizing them as assets of unexplained origin, apply to persons (as well as their heirs and legal successors) who own, use, possess or control assets whose aggregate size is equal to or exceeds thirteen million fold the size of the monthly calculation index.

The total amount of assets of a person (group of persons) is determined on the basis of any available sources, including accounting, tax, audit reports, information on cadastral, balance sheet, market, estimated value of assets, information on the price of acquisition or subsequent alienation of assets, information from analytical reviews in the media and other information.

For the purposes of this paragraph, the monthly calculation index is determined in accordance with its size, established by the legislation of the Republic of Kazakhstan, in force during the period for which the total amount of assets of a person (group of persons) is determined. If the total amount of assets of a person (group of persons) is determined on the date in the period in which the previously effective legislation of the Republic of Kazakhstan did not provide for the establishment of a monthly calculation index, for such a period the value of the monthly calculation index will be the value of that first established by the legislation of the Republic of Kazakhstan.

8. Entities and (or) their affiliated persons are obliged, in cases and on the grounds established by this Law, to prove in court the legality of the sources of acquisition (origin) of assets belonging to them.

Article 3. Legislation of the Republic of Kazakhstan on asset recovery

1. The legislation of the Republic of Kazakhstan on asset recovery is based on the Constitution of the Republic of Kazakhstan and consists of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. International treaties ratified by the Republic of Kazakhstan shall have priority over this Law. The procedure and conditions for the operation on the territory of the Republic of Kazakhstan of international treaties to which the Republic of Kazakhstan is a party are determined by the legislation of the Republic of Kazakhstan.

3. Legal relations regulated by the legislation of the Republic of Kazakhstan on asset recovery are not subject to the legislation of the Republic of Kazakhstan on public procurement in terms of acquisition by the authorized body for asset recovery:

1) of special software (licensed software) in the field of analysis, synthesis of documents (information), assistance in data analysis and other software and technical equipment;

2) of assessment, audit, professional legal and other (consulting) services on: search, collection, processing and analysis of information on the origin of assets; international legal cooperation on asset recovery;

3) of services for the preparation, presentation and support in foreign courts and other competent authorities of foreign states of civil claims and other procedural documents related

to the establishment of the legal status, legal affiliation, ownership of assets subject to return to the state, as well as the return of such assets;

4) of services for representation of interests in courts and other competent authorities and organizations of foreign states, and international organizations on asset recovery in foreign and international courts (arbitrations);

5) of audit services, assessment of assets to be returned.

Article 4. Basic principles of asset recovery

1. Asset recovery is carried out on the basis of the following principles:

1) legality;

2) the priority of stimulating voluntary asset recovery;

3) transparency and accountability;

4) the priority of protecting the rights, freedoms and interests of the participants in the process;

5) interaction between the state and civil society;

6) protection of civil turnover, the rights of bona fide purchasers and bona fide creditors;

7) proportionality (proportionality) of measures and mechanisms for asset recovery.

2. A person who has reported the facts of illegal acquisition and withdrawal of assets or otherwise assists in the return of assets is protected by the state in accordance with the Criminal Procedure Code of the Republic of Kazakhstan, the Law of the Republic of Kazakhstan "On state protection of persons participating in criminal proceedings".

Article 5. Goals and objectives of this Law

1. The objectives of this Law are the return of assets and (or) their involvement in legal economic turnover in the Republic of Kazakhstan, elimination of the causes and conditions that contributed to their illegal acquisition and withdrawal, as well as the restoration of social justice in society.

2. The goals specified in paragraph 1 of this Article are achieved by solving the following tasks:

1) identification, suppression, disclosure and investigation of offenses in the field of asset withdrawal;

2) development of international legal cooperation on asset recovery;

3) formation of state policy and effective use of returned funds for the benefit of society;

4) identification and elimination of the causes and conditions that contributed to the illegal concentration of economic resources, illegal withdrawal of assets, and elimination of their consequences.

Chapter 2. COMPETENCE OF THE AUTHORIZED BODY FOR ASSET RECOVERY, INTERDEPARTMENTAL INTERACTION AND ACTIVITIES OF THE COMMISSION

Article 6. Competence of the authorized body for asset recovery

The authorized body for asset recovery:

- 1) carries out asset recovery activities on behalf of and in the interests of the state;
- 2) searches, collects, processes, summarizes, evaluates incoming information about assets, analyzes information about the origin of assets;
- 3) ensures interdepartmental interaction and coordination of the activities of state, law enforcement and special state bodies on asset recovery issues;
- 4) maintains the register formed by the commission;
- 5) concludes agreements on voluntary return of assets, amicable agreements in accordance with the civil procedural legislation of the Republic of Kazakhstan, procedural agreements on the admission of guilt and return of assets in accordance with the criminal and criminal procedural legislation of the Republic of Kazakhstan and other agreements that do not contradict the legislation of the Republic of Kazakhstan;
- 6) carries out international legal cooperation in criminal, administrative, and civil law spheres in order to recover assets;
- 7) carries out international legal cooperation in the field of search (disclosure), confirmation of origin, application of provisional interim measures, interim measures and return to the state of illegally acquired assets;
- 8) performs the functions of a working body that ensures the activities of the commission;
- 9) initiates administrative, criminal and civil proceedings on behalf of the state, as well as proceedings on administrative offenses against individuals and legal entities on the grounds provided for by this Law;
- 10) adopts regulatory legal acts within its competence in accordance with the procedure established by the legislation of the Republic of Kazakhstan;
- 11) develops recommendations for improving regulatory legal acts in the field of asset recovery;
- 12) requests and receives information and materials from state bodies, organizations, quasi-public sector entities and officials in accordance with the procedure established by the legislation of the Republic of Kazakhstan;
- 13) jointly with the authorized body responsible for the management of tax receipts and other mandatory payments to the budget, approves the form and procedure for submitting a declaration on the disclosure of assets;
- 14) exercises other powers provided for by this Law, other laws of the Republic of Kazakhstan and acts of the President of the Republic of Kazakhstan.

Article 7. Interdepartmental cooperation in the field of asset recovery

1. The authorized body for asset recovery interacts with law enforcement agencies of the Republic of Kazakhstan, special state bodies, authorized state bodies, organizations, quasi-public sector entities within its powers through:

- 1) collection, analysis and monitoring of information to counter illegal acquisition of assets;

2) requesting information about the illegal acquisition and (or) withdrawal of assets obtained in the course of their activities, as well as information and documents constituting official, commercial, tax or other legally protected secret, with the exception of banking secrecy, insurance secrecy, the secrecy of the provision of microcredit and secrecy in the securities market, in respect of persons, included in the register in accordance with this Law.

Information, data and documents constituting banking secrecy, insurance secrecy, the secret of providing a micro-loan and the secret of the securities market, about the persons included in the register, are provided upon written request of the authorized body for asset recovery signed by the first head or the person performing his duties, with an extract from the register, formed in accordance with this Law, banks, organizations engaged in certain types of banking operations, insurance organizations, organizations engaged in microfinance activities, and professional participants of the securities market;

3) request for information related to the illegal acquisition and withdrawal of assets obtained in the course of criminal proceedings and operational investigative activities, with the exception of information the submission of which is prohibited by the Law of the Republic of Kazakhstan "On operational investigative activities".

2. Law enforcement agencies of the Republic of Kazakhstan, special state bodies, authorized state bodies, organizations, quasi-public sector entities:

1) provide information, data and documents required by the authorized asset recovery body for the implementation of asset recovery measures, as well as performing the functions of the working body of the commission;

2) upon self-identification, inform the authorized body for asset recovery of suspicious transactions, including transactions for the export (import) of goods (works, services) with prices clearly different from the market value, indicating the details of individuals and legal entities.

Article 8. Commission

1. In order to develop offers and recommendations on the return of illegally acquired and withdrawn assets, a commission shall be established.

The commission operates on a permanent basis and is headed by the Prime Minister of the Republic of Kazakhstan.

The regulations and personal composition of the commission members are approved by the Government of the Republic of Kazakhstan.

The personal composition of the commission members is formed from deputies of the Parliament of the Republic of Kazakhstan, public figures, members of the Government of the Republic of Kazakhstan, first heads of state bodies and other persons.

2. The working body of the commission is the authorized body for asset recovery.

3. The authorized body for asset recovery and the members of the commission are obliged to ensure the safety and confidentiality of the information received.

4. Other issues of the commission's activities are regulated by its regulations.

Article 9. Functions of the commission

1. The main functions of the commission are:

1) development of recommendations on systemic measures aimed at eliminating the causes and conditions of illegal acquisition of assets, as well as their withdrawal from the Republic of Kazakhstan;

2) development of recommendations on methods and mechanisms for the return of assets to the state and (or) their involvement in legal economic turnover in the Republic of Kazakhstan;

3) consideration of information on assets and other information confirming the legality of the sources of acquisition (origin) of the declared assets;

4) formation of the register taking into account socio-economic risks and other factors.

2. The commission develops recommendations on assets – to the legal entities included in the list of city-forming legal entities approved by the authorized body for regional development, taking into account the need to ensure social, political and economic stability.

The recommendations specified in part one of this paragraph are subject to mandatory approval by the Government of the Republic of Kazakhstan.

3. The recommendations of the commission are mandatory for consideration by the authorized body for asset recovery.

Article 10. Annual information on countering illegal acquisition and withdrawal of assets, as well as systemic measures taken

1. The authorized body for asset recovery annually prepares information on countering the illegal acquisition and withdrawal of assets, as well as systemic measures taken (hereinafter referred to as annual information), which is published on its official Internet resource.

2. The annual information contains an analysis and assessment of the results of activities to counteract the illegal acquisition and withdrawal of assets, as well as systemic measures taken, recommendations for the formation, implementation and improvement of the current legislation of the Republic of Kazakhstan to exclude the causes and conditions conducive to the illegal acquisition and withdrawal of assets.

3. The procedure for preparation of annual information and its publication is approved by the Prosecutor General of the Republic of Kazakhstan.

Chapter 3. MEASURES FOR THE RETURN OF ILLEGALLY ACQUIRED AND WITHDRAWN ASSETS

Article 11. Monitoring and analysis of information to counter illegal acquisition, withdrawal and return of assets

1. Monitoring and analysis of information for countering illegal acquisition, withdrawal and return of assets, aimed at searching, collecting, processing, summarizing, evaluating incoming information about illegally withdrawn assets, shall be carried out by the authorized body for asset recovery in order to define:

- 1) the group of persons involved in the scheme of illegal withdrawal of assets, as well as the group of affiliated and other persons;
- 2) the total amount of assets of persons to be included in the register;
- 3) signs and circumstances of illegal acquisition of assets, including their withdrawal from the Republic of Kazakhstan;
- 4) the reasons, conditions and circumstances of the concentration of economic resources in the relevant market of goods, works or services;
- 5) other information necessary for the preparation of asset recovery strategies.

The rules for monitoring and analyzing information to counter illegal acquisition, withdrawal and return of assets are approved by the Prosecutor General of the Republic of Kazakhstan.

2. Sources of information for monitoring and analysis for the purpose of further inclusion of a person in the register are any sources of information not prohibited by the legislation of the Republic of Kazakhstan.

The total amount of assets of the entity and (or) its affiliated persons is determined on the basis of any available sources of information during the period when the assets were or were presumably owned, used, possessed and (or) controlled by a person (group of persons).

3. During the monitoring and analysis of information, the authorized body for asset recovery has the right to demand additional information from subjects and (or) their affiliated persons, state, local representative and executive bodies, local self-government bodies and other organizations, regardless of ownership forms, initiate verification of the legality of the sources of acquisition (origin) of assets and other measures.

4. The results of the analysis of information may be the basis for inspections by state bodies, as well as for the formation of a register.

Article 12. Composition of asset recovery measures

1. Measures aimed at asset recovery include: measures for search (disclosure), confirmation of the origin of assets, preliminary interim measures, interim measures, measures for voluntary or compulsory return of assets, management of assets confiscated or converted into state income and other measures.

2. Measures for the search (disclosure) of assets include a set of measures aimed at establishing the existence of assets to be returned, determining their actual and legal location, establishing schemes of corporate, actual and other links between assets and persons owning or controlling the assets, and other information necessary for further work aimed at the asset recovery.

3. Measures to confirm the origin of assets include a set of measures aimed at confirming the legality of the formation (acquisition), origin, increasing the assets, analysis and evaluation of information and evidence.

4. Preliminary interim measures, interim measures include measures provided for by the legislation of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan, the legislation of foreign states.

5. Measures for voluntary or compulsory return of assets include measures specified in the provisions of Chapter 4 of this Law.

6. Measures for the management of assets confiscated or converted into state income include measures for:

1) taking assets into management;

2) incurring the costs of maintaining and ensuring the safety of assets;

3) appointment of external (trust) managers of assets located outside the Republic of Kazakhstan before their sale or return to the Republic of Kazakhstan;

4) determining the conditions for the disposal of assets, including the sale of assets confiscated or converted into state income;

5) ensuring the uninterrupted operation of enterprises in respect of which preliminary interim measures have been taken, interim measures, as well as enterprises converted into state income;

6) other issues related to the management and disposal of assets.

7. The measures provided for by this Law may also be taken if it is necessary to provide legal assistance to foreign states.

Article 13. Register

1. For the purposes of asset recovery, the commission forms a register at the recommendation of the authorized body for asset recovery.

2. The register includes information about the subjects and (or) their affiliated persons, as well as about the heirs and legal successors of the subjects and (or) their affiliated persons, who own, possess or control or presumably have (had) assets subject to confirmation of the legality of the sources of their acquisition (origin).

Article 14. The procedure for formation of the register

1. In the event that the authorized body for assets recovery, based on monitoring and analysis of information, has reasonable doubt about the legality of the sources of acquisition (origin) of assets that are (were), presumably are (were) owned, used, possessed or controlled by the entity and (or) its affiliated persons, as well as heirs and legal successors of the entities and (or) their affiliated persons, the aggregate size of which is equal to or exceeds thirteen million times the size of the monthly calculation index, the issue of inclusion in the register of the entity and (or) its affiliated persons is submitted to the commission for consideration.

2. The grounds for reasonable doubt about the legality of the sources of acquisition (origin) of the assets of the entity and (or) its affiliated persons are information indicating one of the following signs:

1) the discrepancy between the value of assets owned, used, possessed or controlled by the entity and (or) its affiliated persons and the amount of legitimate income or other

legitimate sources of covering the costs of acquiring such assets, including in relation to (up to) primary assets and in relation to (up to) primary income (sources of covering the expenses).

For the purposes of this Law, legitimate income or other legitimate sources of covering the expenses of the entity and (or) its affiliated persons for the acquisition of assets include income acquired legally in compliance with all the requirements of the legislation of the Republic of Kazakhstan, including legitimate sources of covering the costs of acquiring assets, up to primary assets and sources of covering the costs of acquiring primary assets;

2) acquisition by entities and (or) their affiliated persons of assets, collectively exceeding the threshold value established by this Law, after (during) the occupation by one of such persons of a responsible public position or a position involving the performance of managerial functions in a state legal entity or a quasi-public sector entity;

3) based on the results of operational investigative measures provided for by the Law of the Republic of Kazakhstan "On operational investigative activities", identification of information giving sufficient grounds to assume that the subject and (or) its affiliated persons own assets of illegal origin;

4) the existence of a guilty verdict issued by a foreign court against the subjects and (or) its affiliated persons;

5) availability of favorable non-competitive legislative (regulatory) and other conditions for conducting business activities of the entity and (or) its affiliates, including conditions for granting and receiving tax and other benefits and preferences, state support, state aid, conditions for participation in public-private projects, access to credit resources, access to public procurement, as well as procurement of quasi-public sector entities or procurement of subsurface users, any other actions and measures on the part of the state or quasi-public sector entities, the economic and (or) legal meaning of which is to support the financial stability and profitability of the assets of the entity and (or) its affiliates;

6) the presence of signs of abnormality of the business conditions of the entity and (or) its affiliated persons, including signs of economic inexpediency of transactions, non-market conditions of transactions;

7) availability of information about losses caused by the entity and (or) its affiliated person to the second-tier bank, the Development Bank of Kazakhstan, including those who participated in state support programs (in any form) and (or) received support from quasi-public sector entities in the form of placement of funds on deposits, revision of conditions for deposit and other accounts, purchase of bonds issued by second-tier banks, revision of terms of bond programs of second-tier banks and other actions, the economic and (or) legal meaning of which is to support the financial stability of a second-tier bank, the Development Bank of Kazakhstan (hereinafter referred to as banks that received state support

), by obtaining knowingly non-repayable loans (loans), obtaining loans (loans) on non-market terms or in violation of the current legislation of the Republic of Kazakhstan and internal documents of the bank or otherwise;

8) availability of information containing signs of involvement of entities and (or) their affiliated persons in operations having characteristics corresponding to typologies, schemes and methods of legalization (laundering) of criminal proceeds and financing of terrorism, in accordance with the legislation on countering legalization (laundering) of criminal proceeds and financing of terrorism;

9) availability of information on the actual concentration of economic resources in the relevant market of goods, works or services, including by holding shares (participation shares in the authorized capitals) of market entities occupying and (or) having occupied a dominant or monopolistic position in the relevant commodity market.

3. Based on the results of consideration at the meeting, the commission forms a register.

4. The register is formed by including a person (group of persons) and specifying the following information:

for individuals – surname, first name, patronymic (if it is indicated in the identity document), individual identification number (taxpayer number, other equivalent similar details, if available), citizenship;

for legal entities – name, registration number, business identification number, location (registration).

5. The deadline for presence of a person (group of persons) in the register is one year from the date of inclusion of the person in the register.

The specified period is interrupted in the case of:

1) implementation of procedural rights by participants in pre-trial proceedings;

2) sending additional requests to persons included in the register;

3) sending requests to authorized state, law enforcement and special state bodies;

4) conducting audits, inspections, claims and other measures related to requests for information, legal assistance and other special measures for interaction with foreign courts and authorized bodies, including those aimed at ensuring the return of assets;

5) conducting pre-trial investigations against the subject and (or) its affiliated persons included in the register;

6) conducting proceedings on cases of administrative offenses against the subject and (or) its affiliated persons included in the register;

7) sending requests for legal assistance, requests for information, requests for arrest, taking other preliminary interim measures, interim measures or confiscation of assets and obtaining evidence to the competent authorities and organizations of foreign states or international organizations;

8) submission of civil claims to foreign courts and other competent authorities of foreign states;

9) conducting investigative actions in the framework of joint investigations with the competent authorities of foreign states on the territory of a foreign state to carry out pre-trial investigation or other actions in the framework of civil or criminal proceedings, as well as in the case of an administrative offense and obtaining information, data or documents on behalf of the Republic of Kazakhstan;

10) recognition and enforcement of decisions of courts or other competent authorities of foreign states in relation to search (disclosure), confirmation of origin, application of provisional interim measures, interim measures, preservation, management, sale and return of assets;

11) filing by a person (group of persons) of lawsuits in the courts of foreign states or in arbitration against the Republic of Kazakhstan and (or) state bodies or officials of state bodies of the Republic of Kazakhstan in connection with asset recovery measures;

12) initiation of administrative cases by the courts of the Republic of Kazakhstan on claims of a person (group of persons) in relation to administrative acts or actions (inaction) of state bodies related to the exercise of their powers, at the request of the authorized body for asset recovery;

13) conducting conciliation and other procedures within the framework of voluntary asset recovery.

After the circumstances that served as the basis for the interruption of the period of stay of a person (group of persons) in the register are completed in accordance with the established procedure, the course of this period is resumed.

Upon expiration of the deadline for being in the register, a person is considered to be excluded from the register. A decision of the commission is not required to exclude a person from the register.

After the exclusion of a person from the register, a claim cannot be filed against him by the authorized body for the return of assets for the forced conversion of such assets into the state income as assets of unexplained origin.

The suspension, renewal or termination of the period of stay of a person (group of persons) in the register is reported to the persons included in the register in accordance with the procedure provided for in paragraph 2 of Article 15 of this Law.

It is not allowed to re-include a subject in the register for the same reasons for which a person (group of persons) has previously been included (included) in the register.

Article 15. Notification of persons included in the register

1. Persons included in the register shall be notified by the authorized body for the return of assets of their inclusion in the register, as well as of the need for prior (two months in advance) notification of the authorized body for the return of assets of the intention of the person included in the register, of paid or gratuitous alienation in any form, encumbrance in any form, transfer to trust management of assets belonging to him (or part of them).

The notification must indicate the reason for the inclusion of the person in the register.

2. Notification shall be made in writing or by other means provided for by the legislation of the Republic of Kazakhstan, ensuring the recording of delivery, including:

- 1) to the email address;
- 2) to a cellular subscriber number;
- 3) to the personal account in the e-government system;

4) by other means using other electronic means of communication that ensure the recording of the fact of delivery.

If the notification is returned in connection with the refusal to accept it, the person is considered to have been duly notified.

Article 16. Application for provisional interim measures

1. In the event of a risk of withdrawal from the country or transformation of an asset, its encumbrance, or the risk of other circumstances that could make it difficult or impossible to return assets to the state, including according to information (notification) received from a person (group of persons) included in the register, about the intention of a paid or gratuitous alienation in any form, encumbrance in any form, transfer to trust management of assets belonging to him (or part thereof), the authorized body for the return of assets for the purpose of taking preliminary interim measures sends an application to the court.

2. An application for adoption of preliminary interim measures shall be filed with the court in compliance with the rules of jurisdiction provided for in accordance with the Civil Procedure Code of the Republic of Kazakhstan.

3. The authorized body for the return of assets applies to foreign courts and (or) other competent authorities of foreign states with applications, petitions and requests for legal assistance in the form of seizure of assets of persons included in the register and (or) taking other measures aimed at suppressing actions aimed at hindering or making it is impossible to search for and return assets.

4. Persons who have acquired property in respect of which the court has previously taken preliminary interim measures, interim measures to ensure the property interests of the state, are not bona fide purchasers.

5. If the authorized body for the return of assets fails to file a claim for the conversion of the relevant assets to the state income, the owner of the asset has the right to demand compensation for losses (in the amount of real damage) caused to him by the unjustified adoption of preliminary interim measures in court according to the rules of the Civil Procedure Code of the Republic of Kazakhstan, except for the following cases, when preliminary interim measures have been taken in connection with the actions of the owner to alienate or intention to alienate the relevant assets without prior notification to the authorized body for the return of assets in accordance with the provisions of paragraph 1 of Article 15 of this Law.

Article 17. Preliminary interim measures

1. Preliminary interim measures shall be taken by the court at the request of the authorized body for the return of assets in respect of assets before filing a claim for the conversion of assets to the state income in accordance with this Law.

When the authorized body for the return of assets submits an application for the adoption of preliminary interim measures, it is not required to simultaneously file a claim for conversion of assets to the state income.

2. An application for the adoption of preliminary interim measures is considered and resolved by a judge on the day of its receipt in court without notifying the persons and holding a court session.

The court, when considering the application provided for by this article, does not check the ratio of the size of the total assets of the person (group of persons) included in the register with the threshold value provided for by this Law.

Based on the results of consideration of the application, the judge issues a ruling on the adoption of a preliminary interim measure or on the refusal to satisfy the application.

3. Preliminary interim measures may be:

1) the seizure of the assets of the entity and (or) its affiliated persons;

2) prohibition of the subject and (or) its affiliated persons to perform certain actions, including to conclude transactions aimed at the occurrence of debt and other obligations, to encumber assets with collateral and other rights of third parties;

3) prohibition to other persons to transfer property to the subject and (or) its affiliated persons for obligations that have expired, or to fulfill other obligations provided for by law or contract with respect to the subject and (or) its affiliated persons;

4) suspension of the sale of the asset.

4. In respect of persons directly or indirectly owning shares of financial organizations, the authorized body for asset recovery may send to the court an application for a preliminary interim measure in the form of a ban on the use of shares of financial organizations, as well as shares (participation shares in the authorized capital) of persons directly or indirectly owning shares of financial organizations, that may also include:

1) prohibition to vote on shares on all or individual issues;

2) prohibition on payment and receipt of dividends on shares to entities and (or) their affiliated persons;

3) prohibition to participate in the distribution of property in case of liquidation of the above-mentioned entities.

5. If necessary, at the request of the authorized body for the return of assets, the court may take other preliminary interim measures that meet the objectives specified in part one of this article.

The court may take several preliminary interim measures. Preliminary interim measures may be taken by the courts of the Republic of Kazakhstan also in respect of assets located outside the Republic of Kazakhstan.

6. In case of violation of the prohibitions specified in this article, the guilty persons bear the responsibility established by laws.

7. The authorized body for the return of assets has the right to demand in court from the subjects and (or) their affiliated persons compensation for losses caused by non-fulfillment of court rulings on preliminary interim measures.

8. The court shall issue a ruling on the abandonment of the application of the authorized body for the return of assets for the adoption of preliminary interim measures without satisfaction if, when considering the issue of the adoption of preliminary interim measures, it finds that it does not contain sufficient information allowing, taking into account the relevance, admissibility, reliability, to make reasonable assumptions that:

1) the assets specified in the application (inventory) are owned, used, possessed and (or) controlled by the respondent(s) specified in the application;

2) the respondent(s) specified in the application are included in the register on the basis of proper compliance with the provisions of this Law concerning the procedure and grounds for including a person (group of persons) in the register.

At the same time, control is assumed with direct or indirect ownership of ten or more percent of the shares (shares) of a legal entity. In respect of smaller size of the blocks of shares (shares) of legal entities than the above, as well as other grounds for control, the authorized body for the return of assets in the application indicates the relevant information and arguments.

9. The court ruling specifies the period for which preliminary interim measures are taken.

The term should not exceed two months. This period may be extended for a reasonable period, but not more than one year at the request of the authorized body for the return of assets, about which a court ruling is issued.

10. A private complaint may be filed against the decision on the adoption of preliminary interim measures within ten working days from the date of the court's ruling to the court of appeal, whose decision is final.

Filing a complaint against a court ruling on the adoption of preliminary interim measures does not suspend the execution of the ruling.

11. The decision on the adoption of a preliminary interim measure is subject to immediate execution.

A ruling on the adoption of preliminary measures is sent by the court for its immediate execution in accordance with article 158 of the Civil Procedure Code of the Republic of Kazakhstan. Copies of the ruling are sent to the authorized body for asset recovery and to the person (group of persons) in respect of whom preliminary interim measures are being taken no later than the next working day from the date of the ruling.

Article 18. The procedure for submitting a declaration on disclosure of assets

1. Persons included in the register have the right to submit declarations on disclosure of assets owned, used, possessed and (or) controlled by such persons (groups of persons),

including assets located outside the territory of the Republic of Kazakhstan, with the attachment of information (documents) confirming the legality of the sources of acquisition (origin) of the declared assets.

2. The declaration on the disclosure of assets and the information (documents) attached to it may be submitted to the authorized body for the return of assets on paper and (or) electronic media:

- 1) within one month from the date of delivery (receipt) of the notification;
- 2) within three months from the date of delivery (receipt) of the notification, if a longer period for the collection and preparation of documents is needed, due to valid reasons.

Valid reasons for the purposes of this article include the objective inability to submit information (documents) within a month for one of the following reasons:

a person (group of persons) does not have documents confirming the relevant information and data, and the need to request (receive) them from state bodies, other organizations in the Republic of Kazakhstan and (or) in foreign countries;

a person being treated in hospitals, sanatoriums and other medical institutions, in social protection organizations, institutions of the penal (penitentiary) system and pre-trial detention centers.

If there are valid reasons, the person has the right to notify the authorized body for asset recovery about them before the expiration of a month from the date of receipt of the notification.

3. In the declaration on disclosure of assets, comprehensive information about the assets located (located) both on the territory of the Republic of Kazakhstan and abroad, and the origin of the funds for which the assets were acquired, even to the point of their primary origin, as well as income from previously received assets, is indicated.

The types of assets subject to declaration are established by the asset disclosure declaration form approved by the authorized body for asset recovery in conjunction with the authorized body in charge of ensuring tax receipts and other mandatory payments to the budget.

The asset disclosure declaration is intended to reflect the following information about the declared property:

- 1) income for the reporting period;
- 2) money located (located) on the territory of the Republic of Kazakhstan;
- 3) money located (located) outside the Republic of Kazakhstan;
- 4) immovable property located (located) on the territory of the Republic of Kazakhstan;
- 5) immovable property located (located) outside the Republic of Kazakhstan;
- 6) vehicles located (located) on the territory of the Republic of Kazakhstan;
- 7) vehicles located (located) outside the Republic of Kazakhstan;
- 8) the share of participation in the authorized capital of a legal entity registered in the territory of the Republic of Kazakhstan;

9) the share of participation in the authorized capital of a legal entity registered outside the Republic of Kazakhstan;

10) securities located (located) on the territory of the Republic of Kazakhstan;

11) securities located (located) outside the Republic of Kazakhstan;

12) digital assets;

13) loans located (located) on the territory of the Republic of Kazakhstan;

14) loans located (located) outside the Republic of Kazakhstan;

15) other information containing information about the origin of assets.

4. Failure of persons included in the register to submit a declaration on the disclosure of assets is not an obstacle to taking measures for the return of assets provided for by the laws of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan.

5. The information provided in the asset disclosure declaration constitutes a commercial secret of the entity and (or) its affiliated person who submitted the declaration.

Article 19. The procedure for reviewing the asset disclosure declaration and the information attached to it

1. When considering the declaration on disclosure of assets and the information attached to it, the authorized body for asset recovery has the right to request additional information from persons included in the register, initiate an audit, verify the legality of the sources of acquisition (origin) of assets, file claims related to asset recovery, as well as take other measures.

In order to implement measures for the return of assets provided for by the laws of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan, the authorized body for the return of assets has the right to perform the actions specified in part one of paragraph 1 of this Article, regardless of the submission of a declaration on the disclosure of assets.

Persons included in the register have the right to provide a response to the request of the authorized body for the return of assets within twenty working days.

2. The term of consideration by the authorized body for asset recovery of the declaration on disclosure of assets, as well as the materials attached to it and additionally submitted by the person (group of persons) included in the register, should not exceed six months from the date of their submission. The specified period is interrupted in the case of:

1) implementation of procedural rights by participants of pre-trial proceedings;

2) sending additional requests to persons included in the register;

3) sending requests to authorized state, law enforcement and special state bodies;

4) conducting pre-trial investigations against a person (group of persons) included (included) in the register;

5) initiating audits, inspections, audits, filing claims related to the return of assets, as well as carrying out other activities related to requests for information, legal assistance and other

special measures for interaction with foreign courts and authorized bodies, including those aimed at ensuring the return of assets;

6) verification of the legality of the sources of acquisition (origin) of assets.

3. Based on the results of consideration of the declaration on disclosure of assets and the information attached to it, the authorized body for asset recovery submits the issue of further measures for consideration by the commission.

4. If, based on the results of the analysis of the asset disclosure declaration submitted by the subject, it is established that there are no grounds for reasonable doubts about the legality of the sources of acquisition (origin) of assets, or that the subject and (or) its affiliates do not comply with the criteria provided for in paragraph 2 of Article 14 of this Law, the subject and (or) its affiliated persons are subject to exclusion from the register after consideration of this issue by the commission.

The absence of grounds for reasonable doubt about the legality of the sources of acquisition (origin) of assets for the purposes of this article means that the value of assets owned by a person corresponds to the amount of legitimate income or other legitimate sources of covering the costs of acquiring such assets, including with respect to (even to the point of) primary assets and with respect to (even to the point of) primary income (sources of covering expenses).

5. The commission has the right to recommend the authorized body for asset recovery to take one of the following measures:

1) to recognize the absence of grounds for applying to the court with a claim for conversion of assets to the state income and exclude the subject from the register;

2) conclude an agreement on the voluntary return of assets (in the case of a corresponding request from the subject and (or) its affiliated persons, taking into account the consideration by the commission of the size of the returned assets and other conditions of voluntary return proposed in the draft agreement submitted to the commission for consideration);

3) further study the declaration and the materials attached to it (with a request, if necessary, for the provision of information, data and documents) with re-submission to the commission for consideration;

4) to recognize the grounds sufficient for applying to the court with a claim for the conversion of assets into the state income.

Article 20. Verification of the legality of the sources of acquisition (origin) of the asset

1. Verification of the legality of the sources of acquisition (origin) of an asset, carried out by the authorized body for the return of assets, is carried out by the decision of its head.

The authorized body for asset recovery checks the legality of the sources of acquisition (origin) of the asset, aimed at investigating the legality of the sources of acquisition (origin) of the asset.

2. Verification of the legality of the sources of acquisition (origin) of the asset is carried out in relation to the asset of the subject and (or) its affiliated persons falling under the scope of this Law.

3. A resolution is issued on the verification of the legality of the sources of acquisition (origin) of an asset, which is registered with the department of the Prosecutor's Office in the field of state legal statistics and special accounting.

Verification of the legality of the sources of acquisition (origin) of the asset is carried out within no more than sixty working days.

If it is necessary to request additional materials, the deadline for verifying the legality of the sources of acquisition (origin) of the asset may be extended for no more than sixty working days.

Verification of the legality of the sources of acquisition (origin) of an asset may be suspended in cases of appointment of an expert examination, other counter-verification of other assets, as well as if it is necessary to obtain information and documents from foreign states and in other cases that hinder the verification.

The calculation of the term of the suspended verification of the legality of the sources of acquisition (origin) of the asset continues from the date of its resumption.

4. When verifying the legality of the sources of acquisition (origin) of an asset, the authorized body for asset recovery may not:

1) require the provision of documents, information, if they do not relate to the subject of verification of the legality of the sources of acquisition (origin) of the asset;

2) exceed the established deadlines for checking the legality of the sources of acquisition (origin) of the asset;

3) interfere with the normal functioning of the asset under review, except in cases that pose a threat to the rule of law and public order, socio-economic stability in the region, the constitutional order and national security of the Republic of Kazakhstan, as well as threatening the occurrence of irreversible consequences for human life and health.

The rules for the appointment and verification of the legality of the sources of acquisition (origin) of an asset are approved by the Prosecutor General of the Republic of Kazakhstan.

Article 21. The rights and obligations of the subject and (or) its affiliated persons who are the owners of the asset, the legality of the sources of acquisition (origin) of which is the subject of verification

1. The subject and (or) its affiliated person, who are the owners of the asset, the legality of the sources of acquisition (origin) of which is the subject of verification, or its authorized representatives, when the authorized body for the return of assets checks the legality of the sources of acquisition (origin) of the asset, have the right:

1) to prevent persons who have arrived to verify the legality of the sources of acquisition (origin) of the asset from entering the facility in the following cases:

failure to submit a resolution on the appointment of a verification on the legality of the sources of acquisition (origin) of the asset in respect of the relevant asset;

verification of the legality of the sources of acquisition (origin) of an asset without registration with the department of the Prosecutor's office in the field of state legal statistics and special records, when such registration is mandatory;

expiration of the terms specified in Article 20 of this Law;

verification of the legality of the sources of acquisition (origin) of the asset by persons not specified in the resolution on the appointment of verification of the legality of the sources of acquisition (origin) of the asset;

2) not to submit information and documents that are not related to the subject of the ongoing verification of the legality of the sources of acquisition (origin) of the asset;

3) file a complaint against the resolution on the appointment of a verification of the legality of the sources of acquisition (origin) of the asset, as well as decisions, acts, actions (inaction) of the authorized body for the return of assets and its officials in accordance with the procedure established by this Law.

2. The subject and (or) its affiliated person, who are the owners of the asset, the legality of the sources of acquisition (origin) of which is being checked, or its authorized representatives, when the authorized body for the return of assets checks the legality of the sources of acquisition (origin) of the asset, are obliged to:

1) ensure unhindered access of officials of the authorized body for the return of assets to the territory and premises of the subject and (or) its affiliated person, that is the owner of the asset, the legality of the sources of acquisition (origin) of which is being checked.

Access of officials of the authorized body for the return of assets and persons involved in the inspection to the territory and premises of sensitive facilities is provided taking into account the established requirements for access and intra-facility modes;

2) submit to the officials of the prosecutor's office the documents (information) on paper and electronic media or copies thereof to attach to the certificate of the results of the verification of compliance with the rule of law;

3) get acquainted with and receive under signature a resolution on the appointment of a verification of the legality of the sources of acquisition (origin) of the asset and a certificate of its results;

4) in accordance with the requirements on safety and labor protection, provide the necessary conditions for persons who verify the legality of the sources of acquisition (origin) of the asset.

Article 22. Procedure for consideration of appeals or complaints related to asset recovery

1. The authorized body for the return of assets considers the appeals of subjects and (or) their affiliated persons who are the owners of assets, or its authorized representatives, the legality of the sources of acquisition (origin) of which is the subject of verification.

Appeals are considered within fifteen working days from the date of receipt of the appeal to the authorized body for asset recovery.

The term of consideration of the appeal may be extended by a reasoned decision of the head of the authorized body for the return of assets or his deputy for a reasonable period, but not more than up to two months, due to the need to establish factual circumstances relevant to the correct consideration of the appeal, which is notified to the person within three working days from the date of extension of the term.

2. Complaints against decisions, acts, actions (inaction) of the authorized body for asset recovery and its officials affecting the rights and obligations of persons shall be submitted to a higher official no later than three months from the date when the person became aware of the adoption of the act or the commission of the action (inaction). If the deadline for appeal is missed for a valid reason, the deadline may be restored by a higher official at the request of the person who filed the complaint.

The term of consideration of the complaint is two months from the date of its receipt.

In case of disagreement with the decision of the authorized body on asset recovery, its actions (inaction) may be appealed in court in accordance with the procedure established by the laws of the Republic of Kazakhstan.

Article 23. Legal guarantees of subjects and (or) their affiliated persons

1. Influence in any form on the subject or its affiliated persons with the aim of impeding the implementation of its business activities is not allowed.

2. The right of the subject and (or) its affiliated persons to submit appeals to the authorized body for the return of assets on the issues of verifying the legality of the sources of acquisition (origin) of the asset, appealing decisions, acts, actions (inaction) of the authorized body for the return of assets is guaranteed by this Law.

3. In the case of the return of assets on a voluntary basis on the basis of agreements and the release of persons from liability, the information provided by them to the authorized body for the return of assets may not be used by it, other authorized state, law enforcement and special state bodies for:

1) appeals to the courts with claims and statements to them on issues within their competence;

2) investigation of new criminal cases registered after the date of conclusion of the said agreements in respect of persons who have concluded these agreements;

3) investigations of criminal cases registered before the date of the said agreements in relation to acts not related to assets that are the subject of the said agreements;

4) initiation of new proceedings in the case of administrative offenses registered after the date of these agreements, in respect of persons who have concluded these agreements;

5) implementation of administrative proceedings registered before the date of these agreements in respect of acts not related to assets that are the subject of these agreements.

4. A subject and (or) its affiliates who have fulfilled all the conditions of an agreement on the voluntary return of assets to the state, a settlement agreement or a procedural agreement on the admission of guilt and the return of illegally acquired assets or other agreements that do not contradict the legislation of the Republic of Kazakhstan, including those concluded in accordance with the legislation of foreign states, may be released from liability in cases stipulated by the legislation of the Republic of Kazakhstan.

Chapter 4. METHODS AND PROCEDURE FOR ASSET RECOVERY

Article 24. Methods (mechanisms) of asset recovery

1. Asset recovery may be voluntary or compulsory.
2. Voluntary return of assets is carried out by transferring all or part of illegally acquired assets to the state.
3. The compulsory return of assets is carried out on the basis of judicial acts of the Republic of Kazakhstan, foreign states or decisions of competent authorities of foreign states in the manner provided for by this Law and other legislative acts of the Republic of Kazakhstan.

Article 25. Voluntary asset recovery

1. Persons included in the register, as well as other persons in whose ownership, possession or control the assets are, have the right to voluntarily return to the state the assets that are in their ownership, use, possession or control, by concluding:

- 1) agreements on the voluntary return of assets;
- 2) settlement agreement in accordance with the civil procedural legislation of the Republic of Kazakhstan;
- 3) a procedural agreement on the admission of guilt and the return of assets in accordance with the criminal and criminal procedure legislation of the Republic of Kazakhstan;
- 4) other agreements that do not contradict the legislation of the Republic of Kazakhstan.

2. Agreements on the voluntary return of assets and other agreements that do not contradict the legislation of the Republic of Kazakhstan are concluded between a person and the authorized body for the return of assets before filing a claim for appeal to convert them to the state income.

3. Settlement agreements concluded with persons against whom civil cases have been initiated in the courts of the Republic of Kazakhstan on the conversion of assets to the state income are subject to approval by the court considering the relevant civil case.

4. The authorized body for asset recovery acts on behalf of the Republic of Kazakhstan as a party to agreements on the voluntary return of assets concluded in accordance with the applicable legislation of foreign states.

During the preparation of the draft agreement on the voluntary return of assets, the authorized body for the return of assets, together with the person, conducts conciliation

procedures, within which the list of assets to be transferred to the state and the conditions for their transfer are determined.

The conditions may provide for the payment of money, the transfer of part or all assets, compensation to the state of the amounts of taxes and other mandatory payments to the budget, as well as the amounts of penalties and fines, and the amounts of damage caused as a result of violation of the legislation of the Republic of Kazakhstan, the amounts of excess income received by a person for the total period of ownership of assets, but not less than the damage caused to the state, unfulfilled investment and other obligations assumed by the subject and (or) its affiliates upon acquisition of the asset, and other measures.

When determining the terms of the agreement on the voluntary return of assets, the contribution to the development of the asset, the reinvestment of income received from the asset, the number of jobs created and other factors characterizing the effectiveness and conditions of use of the asset are taken into account.

The terms of the agreement on the voluntary return of assets should provide for the return of the amounts of excess income received by the person for the total period of ownership of assets, in cases when the person received such excess income due to favorable non-competitive business conditions, including those established in the regulatory legal acts of the Republic of Kazakhstan, and as a result of the actual concentration of economic resources in the relevant commodity market, works or services, including through direct or indirect ownership of shares (shares of participation in the authorized capital) of market entities that occupy and (or) have occupied a dominant or monopoly position in the relevant commodity market.

The procedure for calculating the amounts of excess income received by a person is approved by the Government of the Republic of Kazakhstan.

The terms of the agreement on the voluntary return of assets should also provide for the implementation of necessary measures aimed at restoring the violated interests of the state and the people of the Republic of Kazakhstan, including reinvesting funds in the Republic of Kazakhstan, creating additional jobs at enterprises, investing in environmental modernization of production facilities and other measures agreed by the parties.

The conditions and procedure for concluding an agreement on the voluntary return of assets, including the definition of assets to be returned (volume, composition), measures for the development of the asset and other measures, are approved by the Government of the Republic of Kazakhstan.

5. No earlier than five working days before the date of conclusion of the agreement, the person returning the assets must be provided with an independent assessment of the returned assets, carried out at his expense, the results of which must be transferred to the authorized body for the return of assets for consideration in determining the amount to be returned to the state.

6. In case of non-fulfillment of the terms of the agreement on the voluntary return of assets, the authorized body for the return of assets shall apply to the court with a claim for the conversion of assets to state income and recovery of the amount of expenses, including those related to the filing of a claim.

In case of subsequent identification of other assets of persons who have concluded agreements, in respect of which measures will be taken to forcibly return assets, such persons are obliged to return to the state in full the amount of excess income received for the total period of ownership of assets as of the date of conclusion of the agreements, as well as to compensate the losses caused to the state.

The provisions provided for in part two of this paragraph do not exclude the right of the authorized body for the return of assets to implement measures to forcibly transfer to the state income all other subsequently identified assets of the persons who concluded the agreement, as well as related excess profits and losses in full.

7. The conditions provided for in this article must be included in agreements on the voluntary return of assets, in settlement and other agreements.

Article 26. The basis for the forced conversion of assets to the state income

1. The basis for the forced conversion of assets to the state income according to the decisions of the courts of the Republic of Kazakhstan issued in civil proceedings is their recognition as the assets of unexplained origin.

2. The grounds for the compulsory conversion of assets into state income in civil proceedings may be applied regardless of:

- 1) the existence of a guilty verdict according to the rules of criminal proceedings;
- 2) the completion of criminal proceedings, the acquittal, the termination of criminal proceedings;
- 3) the presence of a pre-trial investigation registered and conducted in accordance with the procedure provided for by the criminal procedure legislation of the Republic of Kazakhstan;
- 4) the expiration of the limitation period for bringing to criminal responsibility in relation to acts classified as criminal and punishable according to the laws in force at the time of the commission of these acts;
- 5) the existence of legislative acts adopted before the date of entry into force of this Law on amnesty and (or) exemption from criminal liability in connection with the legalization of property (in respect of property obtained as a result of the commission of corruption and other categories of crimes that were not subject to legalization under the terms of the relevant legislative acts).

3. The forced conversion of assets to the state income in civil proceedings is carried out with the qualification of issues of legality, criminality and punishability of acts in accordance with the norms of laws in force at the time of the commission of these acts.

Article 27. Features of forced asset recovery in civil proceedings

1. In the event that the authorized body for asset recovery has reasonable doubt about the legality of the sources of acquisition (origin) of assets of a person included in the register, after reviewing the materials by the commission, the prosecutor, on the basis of consideration of all necessary circumstances, based on the recommendations of the commission, decides to file a lawsuit to the court for the conversion of such assets into state income as assets of unexplained origin.

2. A prosecutor's claim for the conversion of assets into state income may be filed in respect of assets owned by:

- 1) subjects and (or) their affiliated persons, their heirs and legal successors;
- 2) other persons (not specified in subparagraph 1) of this paragraph) who acquired assets from subjects and (or) their affiliated persons free of charge or on non-market terms or knew or should have known about the criminal or other illegal origin of such property.

The circumstances specified in sub-paragraphs 1) - 5) of paragraph 2 of Article 26 of this Law are not grounds for the return of civil claims specified in this paragraph, do not prevent the filing and acceptance of claims for court proceedings, consideration of the case and the court's decision in civil proceedings.

An extract from the minutes of the commission is attached to the claim filed on the basis of recognition of assets as assets of unexplained origin.

Consideration of the claim is carried out according to the rules provided for by the Civil Procedure Code of the Republic of Kazakhstan, with the features established by this Law.

The term of consideration of the case by the court is no more than six months from the date of completion of the preparation of the case for trial.

The term of consideration of the case, taking into account its actual complexity, the interests of the persons involved in the case, may be extended for an additional period of up to one year, taking into account reasonableness and sufficiency.

The defendant's non-appearance is not an obstacle to the consideration of the case.

3. The asset is not claimed from a bona fide acquirer, except in cases provided for by legislative acts of the Republic of Kazakhstan.

If the asset to be returned to the state has been transferred to a bona fide acquirer or its identification, allocation or conversion to state income is impossible, then by a court decision, when the relevant claims are filed by the authorized body for the return of assets, an amount equal to the market value of the specified asset as of the time of filing the claim may be recovered from the defendant.

4. If the asset to be returned to the state is burdened with the legally protected rights of bona fide creditors, as well as the rights of other persons provided for by the laws of the Republic of Kazakhstan, then by a court decision, at the request of the plaintiff, the asset may be converted into state income or an amount equal to the market value of the specified asset as of the time of filing the claim may be recovered from the defendant.

When an asset is transferred to the state income, the legally protected rights of bona fide creditors and other persons are preserved until the expiration of their validity or termination on the grounds provided for by the laws of the Republic of Kazakhstan or contracts.

In the case of assets being converted into the state income, the property rights of unscrupulous creditors in respect of assets for obligations secured by them shall cease from the moment the court decision on the conversion of such assets into the state income enters into legal force.

Bona fide creditors (purchasers of any property rights) do not include persons who have concluded contracts free of charge or not on market terms and are affiliated with persons included in the register whose affiliation has been established by the court.

5. If the property is encumbered with the property rights of a legal entity affiliated with a person or a person having a kinship relationship with it, or if the beneficiary of these property rights is the person who owns the property, these rights cease from the moment the court decision on the conversion of the property into state income enters into legal force.

6. The prosecutor has the right on behalf of the state to demand compensation for damage within the limits of the amounts of state support provided to the bank, which was caused by the actions (inaction) of the persons who caused such harm, as well as the costs of the state for providing state support to the bank, if as a result of such actions (inaction) the banks were unable to independently return to the state the amounts of state support received. Compensation by persons for the harm caused by them and the state's expenses for providing state support to the bank reduces the amount to be refunded by the bank to the state, within the limits of the reimbursed amounts of such harm and expenses.

7. A claim for the conversion of assets into state income may include claims for the return of excess income received by a person (group of persons) for the entire period of ownership of the asset, invalidation of transactions, claims for recovery from someone else's possession with reimbursement of expenses incurred for the return of assets and other legitimate claims.

Article 28. Forced conversion of assets of unexplained origin to the state income

1. When considering a claim for the conversion of assets of unexplained origin to the state income, the following circumstances are subject to proof:

- 1) information to identify assets (description, location and other information);
- 2) the ownership of assets by the defendant and the existence of grounds in relation to the defendant or his affiliated persons for inclusion in the register provided for by this Law;
- 3) the cost of acquisition by the defendant or its affiliated persons of assets or, in its absence, the market value at the time of acquisition, if the cost is not established, then at the time of filing the claim;
- 4) the amount of legal income or other legal sources of covering the costs of the defendant or his affiliates that were used to acquire assets, and the correspondence of the amount of such income or sources of covering costs for their acquisition;
- 5) other circumstances that are important for the proper consideration of the case.

The circumstances specified in subparagraphs 1) and 2) of this paragraph are subject to proof by the plaintiff with a reasonable degree of reliability.

The defendant must provide clear and solid evidence on the circumstances specified in subparagraphs 3) – 4) of this paragraph.

If the plaintiff, taking into account the reliability, proved that the acquisition (receipt) by the defendant, directly or indirectly, of the assets in respect of which the claim was brought, was carried out with a significant violation of the law, including causing damage to property rights or interests of the state, state enterprises, state institutions, organizations with direct or indirect participation of the state in the authorized capital, including quasi-public sector entities or other persons, the defendant must provide clear and solid evidence to the contrary. If the plaintiff, taking into account the reliability, proved that the acquisition (receipt) by the defendant, directly or indirectly, of the assets in respect of which the claim was filed, was carried out with the involvement of income from the use or sale of other assets (other assets or income from them) that were acquired (received) with a significant violation of the law, including caused damage to property rights or interests of the state, state enterprises, state institutions, organizations with direct or indirect participation of the state in the authorized capital, including subjects of the quasi-public sector or other persons, the defendant must provide evidence to the contrary. If the defendant has not provided such evidence to the court, then the relevant assets in full or in part cannot be recognized by the court as those acquired (received) using legitimate sources of acquisition (receipt).

Other circumstances are proved by a person who refers to them as the grounds for his claims or objections according to the general rules of evidence provided for by the Civil Procedure Code of the Republic of Kazakhstan.

2. Assets that are the subject of a claim, on the basis of a court decision, are subject to compulsory gratuitous conversion to the state income as assets of unexplained origin if the defendant has not proved the circumstances in accordance with this Law or has not refuted the existence of the circumstances indicated by the plaintiff.

3. The limitation period for filing a claim on the conversion of assets to the state income as assets of unexplained origin is five years.

The limitation period for filing a claim on the circulation of assets to the state income as assets of unexplained origin begins from the date of submission by a person (group of persons) of a declaration on the disclosure of assets. If the declaration is not submitted, the limitation period begins from the date of expiry of the period during which the person (group of persons) was (were) entitled to submit a declaration on the disclosure of assets.

Article 29. The court's decision and its execution

1. A court decision is made in accordance with the requirements of Article 223 of the Civil Procedure Code of the Republic of Kazakhstan.

2. If, during the consideration of the case, it is established that the assets that are the subject of the claim ensure the property rights of creditors, the court decision must contain a conclusion on the good faith or bad faith of such creditors in accordance with this Law.

In case of satisfaction of a claim for assets, including cashless money, undocumented securities, the court decision must contain information sufficient to identify such assets (account details, data on the account holder, data on the person keeping records of rights to assets and other data).

Article 30. The possibility of confiscation or conversion of an asset in monetary equivalent to the state income

1. The methods (mechanisms) of asset recovery provided for by this Law, preliminary interim measures, interim measures may also be applied to assets that have been partially or completely modified or transformed or to which they have been partially or completely attached, regardless of the method of such modification, transformation or attachment, as well as to benefits, products, income received as a result of the use of such assets.

2. If illegally acquired assets have been fully or partially attached to other assets, only that part of the attached assets that corresponds to the established value of illegally acquired assets is subject to return. Arrest and other preliminary interim measures, interim measures may be established in respect of illegally acquired assets.

3. If the assets to be returned cannot be returned in kind, the value of such assets expressed in money or other property as of the date of filing the relevant claim by the prosecutor with the court shall be reimbursed.

Article 31. Other grounds for initiating civil proceedings

1. Proceedings in the court of the Republic of Kazakhstan under the rules of this chapter on cases on the conversion of assets to the state income may be initiated directly at the request of the competent authority of a foreign state in cases provided for by international treaties and the legislation of the Republic of Kazakhstan.

2. The court has the right to make a decision on the transfer to a foreign state of confiscated property or an asset or its monetary equivalent converted into state income in whole or in part in cases provided for by international treaties of the Republic of Kazakhstan.

Chapter 5. SPECIAL STATE FUND AND MANAGEMENT COMPANY

Article 32. Special state fund

1. Special state fund is a cash control account opened in the central authorized body for budget execution in accordance with the Budget Code of the Republic of Kazakhstan for crediting receipts and spending money for the purpose of financing social, economic projects of the Republic of Kazakhstan, as well as expenses of the authorized body for asset recovery in accordance with the procedure determined by the legislation of the Republic of Kazakhstan

2. The allocation of funds of the Special state fund is carried out with mandatory consideration of recommendations of central state bodies at the Republican Budget Commission in accordance with the Budget Code of the Republic of Kazakhstan.

Information on the receipts and expenditures of the Special state fund is subject to annual publication by the central authorized body for budget execution.

3. The receipts of the Special state fund are:

1) money, including from the sale of property returned in accordance with the procedure established by this Law and other laws of the Republic of Kazakhstan;

2) money from the sale of other property acquired by the management company or as a result of its asset management activities in accordance with the legislation of the Republic of Kazakhstan.

The procedure for using and monitoring the funds of the Special state fund is determined by the central authorized body for budget execution.

The procedure for selecting and determining criteria for social and economic projects is developed by the central authorized body for state planning.

Article 33. Management company

1. The management company is a commercial organization, the sole founder and participant of which is the Government of the Republic of Kazakhstan.

The objectives of the management company are management, preservation, sale of assets returned in accordance with the procedure established by this Law and other laws of the Republic of Kazakhstan.

2. The property of the management company is formed at the expense of:

1) assets returned in accordance with the procedure provided for by this Law;

2) own funds.

Assets returned in cash are credited directly to the Special state fund.

The management company maintains accounting records and submits financial statements separately for its own funds and for assets returned in accordance with the procedure provided for by this Law and other laws of the Republic of Kazakhstan.

3. The tasks of the management company are:

1) on behalf of the state to take assets, returned to it, into ownership;

2) ensuring the safety and maintenance of assets converted into state income;

3) asset management;

4) ensuring the transfer of funds to the Special state fund from the sale of assets.

4. Assets transferred to the management company cannot be:

1) the subject of the pledge;

2) recovered at the request of creditors;

3) the subject of seizure or other encumbrance of property;

4) collected by collection order for the obligations of the management company and third parties;

5) the subject of ensuring the fulfillment of a tax obligation not fulfilled on time;
6) recovered in the order of recourse claims;
7) the subject of collateral for other obligations, including the obligations of the management company.

5. The management company has the right to receive a commission fee for its activities in the absence of funding from the republican budget for the coming year, the amount of which is set by the Government of the Republic of Kazakhstan.

The amount of commission fees is limited to the amount of funds necessary to cover the current expenses of the management company in the corresponding financial year.

6. When creating a management company, a board of trustees is formed that may include deputies of the Parliament of the Republic of Kazakhstan, public representatives and independent experts.

7. The procedure for managing assets transferred to the management company is determined by the central authorized body for state property management.

8. The legislation of the Republic of Kazakhstan on public procurement does not apply to the legal relations regulated by this Law regarding the activities of the management company for the management, preservation, sale of assets returned in accordance with the procedure established by this Law and other laws of the Republic of Kazakhstan.

At the same time, the purchase of goods, works, services to ensure the activities and functioning of the management company is carried out in accordance with the legislation on public procurement.

9. In case of cancellation (changes in the relevant part) by the court of the act on the basis of which the property became the property of the state, the management company returns the property in kind. If the property was sold in accordance with the procedure established by the legislation of the Republic of Kazakhstan on the return of assets, its value is reimbursed within the funds received from its sale. Losses are subject to compensation in accordance with paragraph 4 of Article 9 of the Civil Code of the Republic of Kazakhstan.

Article 34. Audit of the management company's activities

1. In case of establishing facts of improper asset management or attempts of illegal alienation, or other disposal of assets by the management company, the authorized body for state property informs the authorized body for asset recovery, relevant law enforcement agencies to verify these facts and take measures provided for by the legislation of the Republic of Kazakhstan, and immediately takes measures to remove the manager of the relevant assets or officials of the management company.

2. At the suggestion of the board of trustees, the management company may involve an audit organization to audit the annual financial statements no more than once every three years.

Chapter 6. INTERNATIONAL LEGAL COOPERATION FOR ASSET RECOVERY

Article 35. General principles of international legal cooperation for asset recovery

1. The Prosecutor General's Office of the Republic of Kazakhstan carries out international legal cooperation in the field of search (disclosure), confirmation of the legality of origin, application of provisional interim measures, interim measures, asset recovery with competent authorities and organizations of foreign states, international organizations in accordance with international treaties and the legislation of the Republic of Kazakhstan.

In the absence of an appropriate international treaty, international legal cooperation can be carried out on the basis of the principle of reciprocity.

2. International legal cooperation for the purpose of asset recovery is carried out in accordance with the procedure provided for by international treaties and the legislation of the Republic of Kazakhstan, by:

1) sending requests for legal assistance, assistance in the execution of requests for legal assistance from the competent authorities of foreign states;

2) sending requests for information, data and documents in relation to illegally acquired assets, as well as in relation to individuals, organizations and beneficial owners involved in the illegal withdrawal of assets, other related offenses, transactions with money and (or) other property, as well as assistance in the execution of such requests from the competent authorities of foreign states;

3) sending requests for arrest, taking other preliminary interim measures, interim measures or confiscation of assets and obtaining evidence to the competent authorities and organizations of foreign states or international organizations, as well as assistance in the execution of such requests from the competent authorities of foreign states;

4) appeals to foreign courts with claims (applications) to establish the legal status or ownership of assets;

5) representing the interests of the state on issues of search and return of assets in foreign and international courts, arbitration courts (arbitration bodies), as well as other competent authorities of foreign states and international organizations;

6) recognition and enforcement of decisions of courts or other competent authorities of foreign states in relation to the search (disclosure), confirmation of the legality of origin, application of provisional interim measures, interim measures, preservation, management, sale and return of assets;

7) implementation of other actions provided for by the legislation of the Republic of Kazakhstan and (or) international treaties of the Republic of Kazakhstan.

3. The authorized body exercising leadership in the field of foreign policy activities shall provide assistance in the return of illegally acquired and withdrawn assets located outside the Republic of Kazakhstan through diplomatic means and methods.

4. Foreign judicial decisions on confiscation or other seizure of assets on the grounds provided for by this Law, or on similar grounds provided for by international treaties or the legislation of the relevant foreign state, as well as preliminary interim measures, interim

measures taken by a court of a foreign state in respect of such property, shall be recognized and executed on the territory of the Republic of Kazakhstan.

The procedure for recognition and enforcement of judicial acts of foreign states is determined by international treaties and the legislation of the Republic of Kazakhstan.

5. In cases provided for by civil procedural legislation and international treaties of the Republic of Kazakhstan, the competent authorities of a foreign state have the right to independently apply to the courts of the Republic of Kazakhstan with civil claims, applications for provisional interim measures, interim measures, other applications aimed at the return of assets or compensation for losses in connection with the illegal acquisition of such assets.

6. The Prosecutor General's Office of the Republic of Kazakhstan has the right to apply to the courts of the Republic of Kazakhstan with an application for interim measures in respect of assets that are the subject of investigation by the competent authorities of a foreign state, if there are reasonable grounds to believe that the competent authorities of a foreign state will take a decision on confiscation in respect of such assets. Such an application may also be submitted in the absence of a request from the competent authority of a foreign state on the principles of reciprocity.

7. The Prosecutor General's Office of the Republic of Kazakhstan, other state bodies of the Republic of Kazakhstan have the right to apply to the courts of the Republic of Kazakhstan with civil claims, applications for the adoption of preliminary interim measures, interim measures, other statements in respect of assets that are located on the territory of the Republic of Kazakhstan and which are the subject, instrument of a crime or other illegal act committed on the territory of a foreign state, as well as benefit, products or income, received as a result of the commission of such a crime or other illegal act. Such an application may be submitted either at the request or in the absence of a request from the competent authority of a foreign state. At the same time, it is not required to bring to criminal responsibility a person who has committed a crime or other illegal act on the territory of a foreign state.

In the cases and in the manner provided for by international treaties of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan, assets that have been foreclosed on civil claims, statements provided for in paragraphs 4 and 5 and paragraph one of this paragraph, are transferred to a foreign state in whose territory the relevant crime or other illegal act has been committed, or to the owners of such assets. At the same time, expenses incurred by state bodies of the Republic of Kazakhstan and private business entities during the search, seizure, confiscation and return of assets are subject to reimbursement, unless the competent state bodies of the Republic of Kazakhstan and competent authorities or organizations of a foreign state or international organizations agree otherwise.

8. International legal cooperation for the purpose of asset recovery in the framework of criminal proceedings is carried out in accordance with the procedure provided for by international treaties and the legislation of the Republic of Kazakhstan by sending requests for

legal assistance through central authorities in accordance with the provisions of article 559 of the Criminal Procedure Code of the Republic of Kazakhstan.

Article 36. Features of information exchange within the framework of international legal cooperation for asset recovery

1. The exchange with foreign states and international organizations of information, data and documents on the search (disclosure), confirmation of origin, application of provisional interim measures, interim measures, asset recovery is carried out in accordance with the procedure established by international treaties or the legislation of the Republic of Kazakhstan, provided that a foreign state or international organization ensures the national regime of its protection, use exclusively for the purposes of legal proceedings or other purposes, specified in the request, as well as the failure to provide information, data and documents to third parties without the prior consent of the Prosecutor General's Office of the Republic of Kazakhstan and (or) other state bodies of the Republic of Kazakhstan.

The Prosecutor General's Office of the Republic of Kazakhstan or another state body of the Republic of Kazakhstan has the right to establish additional conditions and restrictions on the use of information, data and documents provided to the competent authority or organization of a foreign state or international organization.

2. Unless otherwise provided by an international treaty of the Republic of Kazakhstan, information or documents received from a foreign state or international organization may be submitted to another foreign state or international organization upon their request with the consent of the foreign state or international organization that submitted the relevant information or documents.

Chapter 7. FINAL PROVISIONS

Article 37. Responsibility of officials of the authorized body for asset recovery

Officials of the authorized body for asset recovery in case of non-fulfillment or improper performance of their official duties in the process of asset recovery, as well as in case of illegal actions (inaction) are liable in accordance with the laws of the Republic of Kazakhstan.

Article 38. The procedure for the entry into force of this Law

This Law shall enter into force upon the expiration of ten calendar days after the date of its first official publication, with the exception of Articles 7, 12 – 31 of this Law, which shall enter into force upon the expiration of sixty calendar days after the date of its first official publication.

*President
of the Republic of Kazakhstan*

K. TOKAYEV