Instructions No 188 Approved by the Board of the National Bank of the Republic of Kazakhstan

The Rules for Conducting Currency Transactions in the Republic of Kazakhstan

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The 24th of November, 1994

Section I. The Procedure for Committing Transactions in Foreing Currency

General Requirements

1.01. Any currency transactions* which are conducted by both residents and non-residents in the Republic of Kazakhstan, shall be carried out only through authorised banks and exchange bureaux.

1.02. Performing any currency transactions outside the authorised banks and exchange bureaux shall be prohibited.

1.03. For committing currency transactions, except for the exchange transactions, legal entities and physical persons shall open currency accounts in one of the authorised banks.

1.04. Tha authorised banks shall have the right to require any necessary information and documents from their clients, concerning the currency transaction to be conducted when the latter commit currency transactions.

1.05. When committing currency transactions, the clients shall present to the authorised banks the duly formulated documents, containing the information concerning the currency transactions.

In the case of conducting currency transactions for which permissions or licences are required of the NatBank of the Republic of Kazakhstan, the clients shall present to the authorised bank copies of such documents.

1.06. Settlements in foreign currency with the legal entities which are non-residents shall be carried out by the legal entities which are residents within the limits of the currency resources which are available in their accounts in a non-cash procedure.

The currency resources must have legal origin and the following sources shall be the legal way for obtaining [currency resources]:

a) export currency receipts;
b) contributions to the charter capital;
c) financial assistance (grants) from non-residents;

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* For the purposes of these Rules, the fundamental concepts shall be used which are outlined in Article 1 of Law of the Republic of Kazakhstan «Concerning Currency Regulation».

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d) currency loans from the authorised banks, foreing banks, financial institutions and any other foreign legal entities, and also loans from physical persons who are non-residents;

e) currency which is acuired at the domestic currency market for tenge through the authorised banks and exchange bureaux.

Legal entities which are residents shall be prohibited [to make] the transactions of paying on the contracts for third parties, and also to carry out settlements in the physical cash procedure.

1.07. The official rate of Tenge for the purposes of taxation, accounting and customs payments to the monetary units of foreign states shall be determined by the NatBank on the basis of the rates of the exchange transactions in the domestic currency market and published in the press.

1.08. In bi-lateral transactions of purchase and sale of foreign currency through the authorised banks and exchange bureaux, , the buyers and sellers shall have the right to independently determine the exchange rate of the Kazakhstani Tenge against foreign currencies.

1.09. The resident legal entities may acquire foreign currency in the domestic currency market and to take loans in foreign currency only for carrying out settlments with non-residents and fulfilling obligations on obtained bank loand in foreign currency.

Loans in foreign currency shall be granted in a non-cash procedure.

1.10. Purchases of foreign currency in the domestic currency market may be carried out both at the expense the owned resources, and at the expense of the resources borrowed in tenge. When acquiring foreign currency at the expense of the borrowed resources, the purpose of the foreign currency use shall be indicated.

1.11. Legal entities shall carry out compulsory sales of the part of export currency receipts from the transit account in the authorised bank and in accordance with the procedure established by the NatBank of the Republic of Kazakhstan at the Kazakhstan Interbank Currency and Stock Exchange in exchange for the equivalent amount in tenge, except for the cases which envisage a special procedure for distributing export receipts in accordance with the Resolutions of the Government of the Republic of Kazakhstan.

1.12. It shall be permissible to pay monetary amounts in tenge, rendering services or supplying any assets with the subsequent receipt of the equivalent in foreign currency abroad, and also receiving monetary resources in tenge as the equivalent for paying foreign currency, rendering services or supplying any assets outside the boundaries of the Republic of Kazakhstan where the interstate or intergovernmental treaties exist.

1.13. Import of currency assets by residents and non-residents into the Republic of Kazakhstan shall be carried out without restrictions in compliance with the requirements of the customs legislation.

1.14. Foreign currency which is acquired by resident legal entities in the domestic currency market, must be transferred to the non-resident through the authorised banks within three banking days in accordance with the conditions of contracts, agreements and arrangements between them.

In the case of a failure to use entirely or in part the acquired foreign currency, upon expiry of five banking days it shall be subject to compulsory sale at the domestic currency market of the Republic of Kazakhstan upon instructions of the client by the authorised bank.

1.15. The authorised banks shall have the right to grant loans to the resident legal entities in foreign currency and tenge under the security of currency assets. Loans which are granted to non-residents in foreign currency and tenge shall be referred to the currency transactions which are associated with the movement of capital, and they shall be subject to registration in advance at the NatBank of the Republic of Kazakhstan.

In the case of the untimely return by the debtor of issued loans, the currency assets may be sold in the domestic currency market for the redemption of the loans or reckoned in currency as repayment of the loan in accordance with the established procedure.

It shall be prohibited to issue loans in foreign currency to the resident physical persons.

1.16. It shall be prohibited to receive in foreign currency the interest and any other payments for loans in tenge.

1.17. In the free economic zones of the Republic, the regulation of currency transactions shall be carried out taking into account the current currency legislation and the legislation concerning free economic zones.

1.18. Export of currency assets shall be permitted within the limits of sums and amounts declared when importing. Selling precious metals abroad shall be carried out only by the NatBank of the Republic of Kazakhstan.

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1.19. Physical persons both residents and non-residents shall have the right to dispose of foreign currency within the limits of amounts available in the currency account, and also currency which is received from other officially documented legal sources in compliance with the requirements stipulated in these Rules.

The following shall be the resources obtained from the officially-documented legal sources:

- resources received as a result of gift and inheriting;
- resources purchased from the authorised bank or an exchange bureau;
- resources declared when entering the Republic of Kazakhstan;
- resources received from selling assets or leasing them to non-residents;
- wages and other types of remuneration permitted by the current legislation.

1.20. Export by non-residents of foreign currency shall be carried out in accordance with the declaration compiled when importing. In the case of exceeding the amount indicated in the import declaration, the person must present the documents in accordance with paragraph 1.19 of these Rules.

1.21. Import and export of securities and payment documents in foreign currency shall be carried out without restrictions in accordance with the legislation concerning securities, and also provisions of these Rules.

1.22. The National Bank of the Republic of Kazakhstan shall carry out licensing of currency transations of certain types.

In accordance with licences issued by the National Bank, banks of the Republic of Kazakhstan shall have the right to carry out the following currency transactions:

a) take and deploy resources in foreign currency into accounts and deposits from the republican, foreign, international banks and any other organisations and also physical persons;

b) attract under their own guarantees from foreign and international banks and other organisations and to grant to banks and organisations credits and loans in foreign currency in the forms which are used in the international banking practice, and also to provide security on received credits, loans in the form of bills of exchange, obligations, other securities and other monetary and material obligations of the bank;

c) carry out purchase and sales of payment documents in foreign currency from legal entities and physical persons, and also commit other transactions and banking operations with those documents;

d) carry out purchase and sales of foreign currency at international and domestic currency exchanges and auctions;

e) conclude interbank agreements with banks of foreign states to establish correspondent relations;

f) carry out encashment services for their clients in foreign currency;

g) carry out crediting of transactions which are related to foreign trade and other types of foreign economic operations;

h) carry out all types of international settlements upon the instructions of correspondent banks;

i) carry out the settlements in trade and non-trade transactions in foreign currency;

j) commit other transactions in accordance with the international banking paractice.

Legal entities shall have the right to obtain the licence of the National Bank of the Republic of Kazakhstan only for performing the exchange transactions with the cash foreign currency with the population.

Section II. Transactions in Foreign Currency Between Residents and Non-Residents

2.01. In order to open a currency account in an authorised bank the resident legal entities shall present the following documents:

- notarised copies of the foundation documents;
- application of the legal entity to open a currency account;
- sample signatures of the authorised persons and the sample seal of the legal entity;
- extract of the tax authority confirming the registration as taxpayer;

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- registration certificate from the authorised body of the Republic of Kazakhstan.

2.02. The residents' conducting current currency transactions shall not require a licence or permission of the NatBank of the Republic of Kazakhstan, except for the following cases:

a) where advance payments of a resident for import of goods and services exeed 30% of the price of those goods and services and the bank guarantee of the exporter bank does not exist;

b) where the term of payment for export, including re-export goods by the resident exceeds 180 days from the date of the shipment (shipment on board, dispatch or acceptance for the carriage);

c) where the term of payment in accordance with consignment agreements associated with export of goods exceeds 180 days from the date of the shipment (shipment on board, dispatch or acceptance for the carriage);

e) where the term of payment or counter supply of goods in accordance with barter, commodity exchange and compensatory deals exceeds 180 days from the date of shipment (shipment on board, dispatch or acceptance for the carriage) of goods supplied by the counterparty (resident or non-resident);

f) where the term of payment for the benefit of the resident in re-export deals exceeds 180 days from the date of effecting by the resident of the payment for goods which is subject to subsequent re-export;

g) where the term of payment for export of services exceeds 180 days from the date of the actual rendering of the services.

2.03. The date of a shipment (shipment on board, dispatch or acceptance for the carriage) shall be the date which is indicated in the transport document, or the date on the stamp which certifies the acceptance for the carriage, or the date of the mark of shipment on board whichever is the latest. In that regard, one must take into account that in the case of issuing several transport documents (with different dates and/or from various ports of shipment) when sending goods on the same ship and on the same trip, the date of the last transport document shall be the shipment date.

2.04. Transfers of foreign currency into accounts of the authorised banks must be effected within 5 days from the date of making the payment in any form for the benefit of the resident by the payer bank (of a non-resident) or by the bank which is authorised by the latter to carry out the payment on the deal, unless otherwise stipulated in the agreement and these Rules.

2.05. A resident shall not have the right to extend the term of the payment requirements to a non-resident or obligations of the latter, and also in any way to reduce the sum of those requirments or obligations.

2.06. Transactions in the account which is opened abroad shall be carried out in accordance with the requirements of permissions of the National Bank of the Republic of Kazakhstan and the regime of that account, as stipulated in paragraph 2.13 of these Rules.

2.07. A resident who carries out the payment of contracts for import (goods, work, services) from his currency account, shall be obliged to present to the authorised bank the corresponding contract, agreement, arrangement.

2.08. Opening current and any other accounts and commitment in them of transactions in foreign currency abroad by the residents, outside the authorised banks shall only be carried out with the permission of the NatBank of the Republic of Kazakhstan in agreement with the Ministry of Finance of the Republic of Kazakhstan and the petition of the Ministry of Economics of the Republic of Kazakhstan.

2.09. The NatBank of the Republic shall consider the applications for issuing permissions to open accounts to the residents in foreign currency abroad in accordance with paragraph 2.13. of these Rules taking into account the special considerations for conducting specific currency transactions and where it is impossible to open such an account in the authorised banks of the Republic of Kazakhstan.

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2.10. Foreign currency which is received by residents as a result of foreign economic activities shall be subject to compulsory inclusion into accounts of residents in the authorised banks of the Republic of Kazakhstan.

In the case of the receipt for the benefit of a resident of resources in foreign currency as a gift, donation, charity contributions and any other receipts of non-trade nature, they shall also be subject to inclusion into accounts of residents in the authorised banks, unless otherwise permitted by the NatBank of the Republic of Kazakhstan.

2.11. The following shall not be subject to compulsory transfer:

a) currency receipts of non-residents related to the construction by them of facilities in the territory of foreign states and which represent payments by the customers (non-residents) of local expenditures of residents during the period of the construction;

b) currency receipts of the residents from their participation in fund [securities?] transactions abroad, which are used for further conducting of those transactions and covering the operational expenses during the period of conducting those transactions;

c) currency receipts of the residents from conducting exhibitions, sports, cultural and other events abroad, used for covering the expenditures associated with their conduct during the period of conducting those operations.

Expending by the residents of currency receipts on other items which are not associated with the above-mentioned expenditures shall be admissible with the permission of the NatBank of the Republic of Kazakhstan.

2.12. Upon the completion of constuction of the items, signing the acceptance protocol abroad, the resident must within 30 days remit to the Republic of Kazakhstan the balance of the resources in foreign currency.

Profits in foreign currency from conducting securities transactions abroad shall be subject to transfer to the Republic of Kazakhstan during 30 days from the date of completion of the transaction.

Currency receipts from conducting abroad of exhibitions, sports, cultural and other events shall be subject to transfer to the Republic of Kazakhstan within 30 days from the date of the completion of those events.

2.13. The conditions and procedure for opening current and other currency accounts abroad by the legal entities of the Republic of Kazakhstan.

The following documents must be presented to the NatBank of the Republic of Kazakhstan in order to obtain permissions of the NatBank to open a current or any other currency account outside the boundaries of the Republic of Kazakhstan:

A. For the legal entities of the Republic of Kazakhstan:

the application and economic substantiation of the necessity to open the currency account abroad with the presentation of details of the legal entity and the foreign bank where it is suggested to open a currency account;

a written consent of the Ministry of Finance of the Republic of Kazakhstan to opening the currency account abroad;

the letter from the foreign bank with its consent to open and maintain a currency account and to provide the information in accordance with the requests of the NatBank, and also timely provide statements on the currency account of the client;

the petition of the Ministry of Economics of the Republic of Kazakhstan to open an escrow-type currency account aborad*;

the extract of the tax authority of registering the would-be owner of the currency account as taxpayer in the place of location of that legal entity.

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* escrow-accounts are the special-purpose accounts for servicing foreign credits received by the resident

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B. For the representations of legal entities and banks of the Republic of Kazakhstan:

the application and economic substantiation of the necessity to open the currency account abroad with the presentation of details of the representation of the bank, legal entity and foreign bank where it is suggested to open a currency account;

the written consent of the Ministry of Finance of the Republic of Kazakhstan to opening of the currency account aborad;

the letter from the foreign bank with its consent to open and maintain a currency account and to provide the information in accordance with the requests of the NatBank, and also timely provide statements on the currency account of the client;

copies of the foundation documents which define the legal status of the resident of the Republic of Kazakhstan in accordance with the legislation of the country of its location, legalised in the embassy (consulate) of the Republic of Kazakhstan abroad. In the case where the above-mentioned authorised bodies of the Republic of Kazakhstan do not exist in the country of location of the representation, the legalisation of the foundation documents shall be carried out at the Ministry of Foreign Affairs of the Republic of Kazakhstan;

a notarised copy of the document which certifies the agreeing of the issue of the location of the representation with the relevant local governments, or any other documents which certify the accreditation of the representation of the resident;

the extract by the tax authority of registering the would-be owner of the currency account as taxpayer in the place of location of those representations.

2.14. The regime of the currency accounts which are opened abroad:

a) current currency account shall be maintained on the principle "on call";

b) to those accounts only the currency which is stipulated in the conditions of the licence must be received, while any other - to the accounts in authorised banks of the Republic of Kazakhstan;

c) before the 15th of each month the owner of an account shall present the report on the movement of currency resources in the account for the previous month. All the banking statements in two compies together with the report shall be monthly sent to the Republic of Kazakhstan: one copy to the NatBank of the Republic of Kazakhstan, the other copy - to the authorised bank which services it;

d) the balance of resources in that account at the month end, which exceeds the maximum amount established in the permission of the NatBank of the Republic of Kazakhstan shall be subject to transfer to the authorised bank of the Republic of Kazakhstan;

e) in other currency accounts (escrow, for the fulfilment of obligations associated with received loans etc.) the amount of the resources in the account must not exceed the amounts stipulated in the conditions of the permission of the National Bank of the Republic of Kazakhstan.

2.15. The participants of foreign economic activities shall independently carry out tax assessments and other compulsory payments through the authorised banks in accordance with the procedure established by the National Bank and the Ministry of Finance of the Republic of Kazakshtan.

2.16. The resident legal entities which opened accounts outside the boundaries of the Republic of Kazakhstan without the appropriate permission and prior to the enactment of the Law No 2141-XII of the Republic of Kazakhstan, dated April 14, 1993 «Concerning Currency Regulation» and which have not transferred the currency receipts to the Republic of Kazakhstan, must obtain the permission of the NatBank of the Republic of Kazakhstan for maintaining such as account abroad.

2.17. In the case of violating paragraphs 2.16 and 5.09 all the amount in foreign currency shall be subject to confiscation from the account to the revenue of the budget of the Republic of Kazakhstan.

Section III. Opening and Maintaining by the Legal Entities and Representations Which are Non-Residents of the Accounts in Foreign Currency in the Authorised Banks of the Republic of Kazakhstan

3.01. Non-residents may open in the authorised banks accounts in foreign currency.

The following may be the sources of the assets in the indicated accounts:

a) resources which are imported and transferred from abroad;

b) receipts from residents and non-residents for the goods and services sold in the territory of the Republic;

c) resources which are received to repay the obligations to the owners of the accounts including the receipts from investments and loans in the territory of the Republic of Kazakhstan;

d) interest on deposits payable by authorised banks;

e) receipts from the accounts of other non-residents in the authorised banks;

3.02. Resources from the accounts may be used within the maximum amounts of resources enumerated in paragraph 3.01. and credit resources which are received from non-residents, and also within the framework of intergovernmental agreements for the following:

a) acquisition of goods and payment of services in the territory of the Republic of Kazakhstan;

b) payment of obligations to residents and non-residents;

c) deployment in deposits;

d) investments in the territory of the Republic of Kazakhstan.

3.03. The indicated resources from the currency accounts in the authorised banks may be freely transferred outside the boundaries of the Republic of Kazakhstan or sold in the domestic currency market of the Republic of Kazakhstan.

3.04. The following documents must be presented in order to open a currency account in an authorised bank:

- notarised copies of the foundation documents;
- application to open a currency account;
- sample signatures of the authorised persons and a sample seal print;
- the extract by the tax authority of the registration as taxpayer.

3.05. Physical cash resources from a currency account may be obtained and used in compliance with the requirements of paragraph 4.24 of these Rules.

Section IV. Opening, Maintaining and Committing Transactions in Accounts and Deposits of Non-Resident Legal Entities in Tenge

For the purposes of performing the transactions in the territory of the Republic of Kazakhstan, which are associated with the current and investment activities, the non-residents shall have the right to convert foreign currency for opening and maintaining the «C»-type and the «I»-type accounts in tenge.

«C»-type Accounts (Current)

4.01. «C»-type accounts in tenge shall be opened to non-residents in authorised banks for servicing their export and import operations (except for the operations associated with the export from the Republic of Kazakhstan, in respect whereof the non-tariff measures shall be applied of the foreign economic regulation), and also for the purposes of maintaining in the Republic of Kazakhstan of their representations and affiliates.

Settlements in export/import transactions may be carried out only from the «C»-type accounts of non-residents which have the right to carry out entrepreneurial activities (activities aimed at extracting profits) in accordance with their foundation documents, registration documents, permissions issued by the authorised Kazakhstani bodies and other documents which define their legal status.

4.02. The «C»-type accounts may be opened on the basis of the bank account agreement which is concluded with the authorised bank of the Republic of Kazakhstan in the name of non-residents of the following categories:

- enterprises, institutions, organisations and also their representations and affiliates;
- banks and other credit institutions, and also their representations and affiliates;
- international organisations which have their representations and affiliates in the territory of the Republic of Kazakhstan;
- foreign diplomatic, trade and other official representations.

The accounts which are indicated in this paragraph shall be opened by non-residents in the place of their location in the territory of the Republic of Kazakhstan.

4.03. The settlements in tenge associated with the transactions which are indicated in paragraph 4.01 of these Rules may be performed through the correspondent accounts of non-resident banks in the authorised banks of the Republic of Kazakhstan by non-resident enterprises, institutions, organisations, international organisations, and also by those which have not in the territory of the Republic of Kazakhstan of any representations nor affiliates, and by the physical persons who are non-residents registered for engaging in business activities in the country of their citizenship or permanent place of residence.

The non-resident banks shall have the right to open in their own name in the authorised banks of the Republic of Kazakhstan only the correspondent accounts through which the settlements are effected which are contemplated by the regime of the «C»-type accounts.

«I»-type (Investment) Special-Purpose Accounts in Tenge

4.04. Non-residents for carrying out the investment activities in the Republic of Kazakhstan (including privatisation deals) shall open the «I»-type special-purpose accounts in the authorised banks of the Republic of Kazakhstan.

Any investments and re-investments in the territory of the Republic of Kazakhstan in tenge, and also purchases of foreign currency for tenge in relation to the repatriation of income received as a result of investment activities in the territory of the Republic of Kazakhstan, must be carried out by the non-residents from the «I»-type accounts.

4.05. Accounts of the «I»-type in tenge may be opened in the name of non-residents which are enterprises, institutions, organisations, banks and any other creidt institutions, international organisations, physical persons.

Settlements in the «I»-type accounts on the privatisation deals may be carried out by all non-residents except for non-resident legal entities with Kazakhstani participation in the charter capital whereof the share of the Republic of Kazakhstan, local bodies of the state power of the Republic of Kazakhstan, public organisations (associations) which are resident; charity or any other public funds which are residents; legal entities and physical persons which are residents, exceeds 25 %.

Settlements in the «I»-type accounts on the deals which are not related to privatisation, may be carried out by all non-residents except for the non-resident physical persons which are not registered for conducting business activities in the country of their citizenship or permanent place of residence.

4.06. Only one «I»-type account may be opened in the name of one non-resident in one of the authorised banks of the Republic of Kazakhstan.

4.07. The «I»-type accounts of non-residents may be opened and maintained only on the basis of the bank account agreement concluded by the non-resident with the authorised bank of the Republic of Kazakhstan.

It shall be prohibited to the non-resident banks to conduct settlements in tenge in the transactions which are associated with foreign investments in the Republic of Kazakhstan (including amongst them those associated with privatisation) through their correspondent accounts in the authorised banks of the Republic of Kazakhstan neither at the expense and upon the instructions of their non-resident clients, nor at the expense of their own resources.

Accounts of Non-Resident Physical Persons

4.08. To the non-resident physical persons accounts in tenge shall be opened by the authorised banks for including their personal income in tenge and payment of current expenses during the time of their residing in the territory of the Republic of Kazakhstan.

4.09. The expenditures which are associated with investment transactions (including privatisation deals) may not be paid from the indicated accounts.

4.10. Accounts of physical persons who are non-residents may be opened and maintained only directly in the authorised banks of the Republic of Kazakhstan.

The non-resident banks shall be prohibited to effect transactions in tenge at the expense and upon the instructions of non-resident physical persons through their correspondent accounts in the authorised banks of the Republic of Kazakhstan.

4.11. It shall be prohibited to physical persons who are non-residents to open joint accounts in the currency of the Republic of Kazakhstan, and also those accounts in the name of any other person.

The Procedure for the Opening by the Authorised Banks of the Tenge Accounts of Non-Residents

4.12. The following documents must be presented to an authorised bank by an applicant in order to open «C»-type accounts in tenge, correspondent accounts of non-resident banks and «I»-type accounts in the name of non-residents which are not physical persons:

a) copies of the foundation documents, extract (copy extract) from the trade register; for the bank - extract (copy extract) from the bank register or any other document which confirms the existence of the permission to engage in banking activities; other documents which determine the legal status of the non-resident in accordance with the legislation of the country of its origin, legalised at the embassy (consulate) of the Republic of Kazakhstan abroad, or at the embassy (consulate) of the foreign state in the Republic of Kazakhstan (with the notarised translation into the Russian language), and in the case where the indicated bodies do not exist - at the Ministry of Foreign Affairs of the Republic of Kazakhstan;

b) for the representations and affiliates of non-residents - the notarised copy of the document which certifies the consent of the relevant local governments to the issue of the placement of the representation or affiliate of the non-resident, and also - for the representations of non-residents - the notarised copies of the permissions to open representations of the non-residents, or any other documents which certify the accreditation of the representation of the non-resident in the Republic of Kazakhstan;

c) the notarised card with the sample signatures of the persons who are authorised to manage the account, and also a sample print of the seal of the non-resident (representaion, affiliate), where it exists;

d) extract from the tax authority of registering the would-be account owner as taxpayer in the place of receiveing income in the Republic of Kazakhstan, and in the case where the non-resident has representations and affiliates in the Republic of Kazakhstan, - in the place of location of those representations, affiliates;

e) copy permission of the national (central) bank of the foreign state, where the existence of such a permission is required for the opening of a non-resident account in the Republic of Kazakhstan in accordance with international treaties with the participation of the Republic of Kazakhstan (with a notarised translation into the Russian language, if the permission is compiled in a foreign language), legalised at the embassy (consulate) of the Republic of Kazakhstan abroad, or at the embassy (consulate) of the foreign state in the Republic of Kazakhstan, and in the case where such bodies do not exist, - at the Ministry of Foreign Affairs of the Republic of Kazakhstan.

4.13. The following documents shall be presented to an authorised bank by an applicant in order to open in the name of the physical person who is non-resident of an account intenge, as indicated in paragraphs 4.08 to 4.11 of these Rules, and also of an «I»-type account for the purposes of buying privatisation items:

a) extract from the tax authority of the Republic of Kazakhstan of the registration of the would-be account owner as taxpayer in the place of carrying out the activities or residing in the Republic of Kazakhstan;

b) notarised card with the sample siganture of the non-resident owner (manager) of the account.

4.14. The authorised bank shall have the right at its discretion to require from the applicant to present additional documents which confirm the solvency of the non-resident.

4.15. Relations between the authorised banks and the clients shall have a contractual nature and they shall be documented as bank account agreements (in the case of opening a

correspondent account, - as interbank agreements), which may be terminated upon the application of the account owner after spending the balances of resources in it in accordance with the regimes of accounts, and also in the case of dissolution of the bank account agreement (the interbank agreement), - in accordance with the conditions of that agreement and the legislation of the Republic of Kazakhstan.

After the inspection of the presented documents, the authorised bank may conclude with the relevant non-resident, on the conditions agreed with him, the bank account agreement (interbank agreement) with the appropriate regime of the account established by these Rules.

A non-resident shall have the right to open an account in his own name and to manage it personally and through a nominated person (manager).

4.16. The nominated person (manager) shall operate on the basis of agreement formulated in accordance with the following procedure.

The power of attorney to open an account (to manage the account) must be certified by a notary, or an embassy (consulate) of the foreign state in the Republic of Kazakhstan, and in the case where those bodies do not exist, - by the Ministry of Foreign Affairs of the Republic of Kazakhstan.

The power of attorney which is sent (imported) from abroad, must be legalised at the embassy (consulate) of the Republic of Kazakhstan abroad or at the embassy (consulate) of the foreign state in the Republic of Kazakhstan, and in the case where such bodies do not exist, - at the Ministry of Foreign Affairs of the Republic of Kazakhstan and presented to the authorised bank together with the notarised translation into the Russian language.

4.17. Opening by the physical person which is non-resident of an account in tenge shall be carried out under the condition of personal arrival to the authorised bank and presenting the passport.

In accordance with the presented documents the officer of the authorised bank shall compile the information reference which is kept in the client's file, wherein the names (of managers) are presented, their dates of birth, citizenship (jurisdiction), other (additional) information which assists in establishing the identity of the person of the applicant (manager). The information concerng the place of residence of the indicated persons and additional information in the case where the confirmation documents do not exist, shall be reflected in the reference based on the word of the owner of the account or the nominated person who shall be obliged to communicate any changes to the authorised bank. The indicated reference shall be attested by the signature of the manager of the authorised bank and affixed with the seal of the bank.

4.18. The translations of documents which are indicated in this Section must be certifited by the notary or an embassy (consulate) of the foreign state in the Republic of Kazakhstan.

4.19. The documents indicated in this Section, including the original bank account agreement, shall be kept in the authorised bank during the whole term of effect of that agreement, and also for not less than five years after the expiry of the term of effect of the agreement.

4.20. An authorised bank which opens to a non-resident an account in tenge, shall be obliged within five days to communicate that to the relevant tax authority of the Republic of Kazakhstan.

The Regime of the «C»-type Accounts

4.21. The following may be included into the «C»-type accounts as well as into the correspondent accounts of the non-resident banks:

a) receipts from non-residents for the goods which are supplied to the Republic of Kazakhstan, and also for the work carried out (services rendered) by the non-resident who is the owner of the account;

b) receipts in tenge from the sales of foreign currency in the domestic currency market of the Republic of Kazakhstan in accordance with the procedure established by the National Bank of the Republic of Kazakhstan;

c) amounts of loans attracted in tenge, and also amount which are received as repayment of the loans granted previously;

d) amounts of sanctions which are levied upon the residents in agreements (contracts) which are concluded with the non-resident who is the owner of the account;

e) receipts from residents in the form of transfers of a non-commercial nature;

f) amounts of insurance payments in the compulsory and voluntary types of insurance;

g) amount of refund from residents of the resources in tenge in the case of dissolution (changing the conditions) of agreements (contracts);

h) amounts of refund into the relevant accounts of balances of cash by the representations (affiliates) of non-residents which exceed the established limits;

i) amounts of refund of the resources which were priorly deployed in the bank deposits, and also the resources which are receivable from selling the deposit certificates of banks, debentures (including governmental) and any other debt obligations;

j) amounts of accrued interest on the balances in the account and upon the resources which are deployed into bank deposits, deposit certificates of banks, debentures (including state bonds) and any other types of debt obligations;

k) amounts of consular fees of the diplomatic representations of foreign states;

l) receipts of the amounts which are extracted from selling inventories which belong to the non-resident account owner;

m) transfers from the accounts of the same type, including those opened on behalf of any other non-resident owners;

n) transfers from the «I»-type accounts which are opened on behalf of the same non-resident owner where the latter presents the agreement with the authorised bank in accordance wherewith the «I»-type account was opened to that non-resident.

4.22. The resources from the «I»-type accounts, and also from the correspondent accounts of the non-resident banks upon the instructions of the owners (managers) of the accounts may be used for the following:

a) payments for the benefit of residents and non-residents to pay for goods, work and services;

b) payments associated with the deployment of the resources from the account into bank deposits, deposit certificates of banks, debentures (including state bonds) and any other types of debt obligations;

c) payment of sanctions on agreements (contracts) which are concluded with residents;

d) payments for the benefit of residents in the form of transfers on a non-commercial nature;

e) payment of taxes, duties, levies and any other compulsory payments of similar nature, and also of the contributions on the social insurance;

f) effecting transfers of the amounts of insurance contributions (premia) in compulsory and voluntary types of insurance;

g) payment of current expenditures on the maintenance in the territory of the Republic of Kazakhstan of representations, affiliates of the non-resident (including lease payments, utility payments and for any other similar services, purchase of inventories to provide for the current activities of the representations and affiliates, payment of leased communication channels, shipment and delivery of freights, postal mailings and periodic publications, payment of wages and other remuneration to workers on labour and civil rights agreements, travel expenses to employees, transfers of insurance premiums in the compulsory and voluntary types of insurance, payment for the medical treatment in the case of accidents and diseases etc.);

h) payment of commission fees to the bank which carries out services associated with the account, and also of the amounts to repay the principle and interest on attracted credits;

i) effecting transfers into «C»-type accounts (correspondent accounts of non-resident banks), including for the benefit of other non-residents.

4.23. It shall be prohibited to buy foreign currency in the domestic currency market of the Republic of Kazakhstan by the payment from the «C»-type accounts (correspondent

accounts of non-resident banks), and also to transfer resources from the «C»-type accounts (correpondent accounts of non-resident banks) into «I»-type accounts in tenge.

Resources shall be included into «C»-type accounts (correspondent accounts of non-resident banks) in a non-cash procedure, except for the cases stipulated in paragraphs 4.21 (h) and 4.21 (k) of this Section.

4.24. [Physical] cash resources of a «C»-type account may be obtained by the representation, affiliate of a non-resident (affiliate of a non-resident bank - from the correspondent account of the non-resident bank) within the limits, which are necessary for the payment of wages and other benefits to the workers on labour and civil rights agreements, payment of travel expenses of the workers and also for immediate small current expenses in accordance with the procedure established for non-resident enterprises, institutions, and organisations. The limits to the [physical] cash amounts of a representation or an affiliate of a non-resident shall be established by the authorised bank which services the representation of the affiliate of the non-resident by agreement with the owner (manager) of that account. The authorised bank shall exercise the supervision of the compliance by the representation or affiliate of the non-resident with the limit of [physical] cash established for it and with the special-purpose use of the cash money from [physical] cash.

Representations and affiliates of non-residents shall be obliged to comply with the procedure for conducting [physical] cash transactions, which is established for the residents of the Republic of kazakhstan.

4.25. The non-resident banks at the expense of the resources in their correspondent accounts in tenge, which are opened in the authorised banks of the Republic of Kazakhstan, may credit non-residents and residents on contractual conditions in accordance with the adopted banking practice.

4.26. The physical persons who are non-residents staying in the Republic of Kazakhstan may withdraw from the tenge accounts of the non-resident banks [physical] cash money for the payment of their travel and any other expenses which are associated with their sojourn in the Republic of Kazakhstan.

A physical person which is non-resident may include the unused balance of the indicated resources into correspondent bank accounts of non-residents only at that authorised bank of the Republic of Kazakhstan, from which that non-resident received the indicated resources.

The amounts of cash resources which may be withdrawn from the correspondent accounts of the non-resident banks, and included into them, shall be determined by agreement between the relevant correspondent banks.

Regime of the «I»-type Accounts

4.27. The following may be included int the «I»-type accounts:

a) receipts in tenge from selling foreign currency in the domestic currency market of the Republic of Kazakhstan in accordance with the procedure established by the National Bank of the Republic of Kazakhstan;

b) receipts in the form of dividend on shares, interest on shares and share-investments, and also any other income which is received as a result of distributing profits (income) of a resident enterprise, institution or organisation;

c) amounts of refund of resources from the Republic's and local budgets, and also from the resident sellers of privatisation items and any other items for foreign investments, the resources from the settlements in the purchase and sale transactions associated with the above-mentioned items, and also the resources which were previously transferred as advance payments associated with those transactions;

d) amounts of sanctions which are levied upon the purchase and sale transactions associated with privatisation items and any other items of foreign investment;

e) the receipts of amounts remaining after selling the assets of liquidated enterprises, after satisfying the claims of the creditors;

f) receipts of the amounts of compensation of the value of the items which belong to the non-resident owner of the account and which are nationalised or requisitioned in the cases and in accordance with the procedure stipulated in the legislative acts of the Republic of Kazakhstan, and also losses which are inflicted upon the non-resident account owner as a result of adopting the legislative acts of the Republic of Kazakhstan or as a result of the actions of the state power which sever the right of ownership in respect of the foreign investment items which belong to him, or which impede the exercise of that right;

g) amounts from selling shares, share and share investments which are items of foreign investment in the territory of the Republic of Kazakhstan.

4.28. The resources from the «I»-type accounts upon the instructions of the owners (managers) of the accounts may be used for the following:

a) purchase of foreign currency in the domestic currency market of the Republic of Kazakhstan in accordance with the procedure established by the National Bank of the Republic of Kazakhstan after the payment of taxes and levies in accordance with the legislation of the Republic of Kazakhstan within the limits of the amounts of the currency resources invested into the national economy of the Republic.

b) payments related to the purchase and sale transactions of foreign investment items (including privatisation items), except for the payments related to the transactions of buying and selling securities which are not the shares expressed in tenge;

c) payments related to the purchase and sale transactions with privatisation coupons;

d) transfers of amounts of advanced payments into accounts of sellers (including into the account of the relevant property fund for the participation in a tender (auction) to acquire the items of privatisation) in relation to the purchase and sale of foreign investmetn items;

e) payment of sanctions which are stipulated in the purchase and sale agreements related to the foreign investment items and in the legislation of the Republic of Kazakhstan;

f) payments of commission fees to the authorised bank for carrying out the services in the «I»-type account;

g) transfers into an «I»-type account opened in the name of the same non-resident owner.

4.29. It shall be prohibited to include into «I»-type accounts of the resources received as credit, the accural and payment of interest on the balances in the «I»-type accounts, transfers of «I»-type accounts into «I»-type accounts, and also into correspondent accounts of the non-resident banks and the «C»-type accounts which are opened in the name of other non-resident owners.

Into the «I»-type accounts, resources shall only be included in a non-cash procedure. It shall be prohibited to withdraw [physical] cash money from the «I»-type accounts.

4.30. It shall be prohibited to lend resources from the «I»-type accounts, include into the «I»-type accounts of the resources from the «C»-type accounts and correspondent accounts of non-resident banks, and also the deployment of the resources from the «I»-type accounts into bank deposits, bank deposit certificates, debentures (including governmental bonds) and any other types of debt obligations.

Regime of the Accounts of the Non-Resident Physical Persons

4.31. The authorised banks may open accounts to non-resident physical persons, in tenge for the inclusion of [physical] cash income of those physical persons and the payment of current expenses during the sojourn in the Republic of Kazakhstan.

4.32. Expenditures associated with the investment transactions (including privatisation deals) may not be paid from the accounts of the non-resident physical persons. In other respects the regime of the accounts of the non-resident physical persons shall be similar to the regime of the accounts of the physical persons who are the residents of the Republic of Kazakhstan.

Accounting in the Authorised Banks for the Transactions in the Accounts of the Non-Residents

4.33. The authorised banks shall open for the non-residents the following accounts in tenge: account No 169 «accounts of foreign banks in tenge», account No 603 «accounts of foreign firms in tenge», account No 717 «accounts of physical persons in tenge».

The transactions of including amounts in tenge shall be reflected in the indicated accounts as credits, and the transactions of writing off payments in accordance with the regimes for maintaining the relevant accounts, established by these Rules, shall be reflected as debits.

4.34. The analytical accounting shall be maintained for each type of the accounts of the non-residents with the separation of the correspondent accounts of the non-resident banks and for each non-resident tenge-account owner of the the appropriate type.

In the analytical and synthetic accounting the transactions in the above-mentioned accounts shall be maintained in tenge.

Reporting and Supervision of the Opening and Maintaining the Accounts of the Non-Residents

4.35. The authorised banks shall present to the National Bank of the Republic of Kazakhstan the statement of the movement of the resources in the «C»-type accounts, correspondent account in tenge of the non-resident banks and the «I»-type accounts of non-residents, and also in the accounts of non-resident physical persons in accordance with the procedure and on the dates established by the National Bank of the Republic of Kazakhstan.

Copies of the documents on the basis whereof an account was opened to a non-resident, and also the information concerning the sources of receipts in those accounts and the items (purposes) of their use shall be presented by the authorised banks to the National Bank of Kazakhstan within three working days from the date of the receipt of the request to persent the indicated documents and information, which was sent by the National Bank of the Republic of Kazakhstan to the address of the authorised bank by letter, telegramme, telex or facsimile.

In the case of the failure to present, or to timely present to the National Bank of the Republic of Kazakhstan of the indicated report, and also of the additionally requested documents and information which are indicated in this paragraph, the authorised bank shall bear the responsibility in accordance with the current legislation of the Republic of Kazakhstan.

4.36. The authorised banks as the agents of the currency control shall exercise the supervision of the foundedness of the inclusion into accounts of the resources of the non-residents and for their special-purpose use in accordance with the regimes of those accounts which are established by these Rules.

4.37. The authorised banks shall bear the responsibility including before their clients for the compliance with the provisions established by these Rules for opening and the regimes of the tenge accounts of the non-residents.

The bodies of the currency supervision and the authorised banks, as agents of the currency supervision shall have the right to require from the owner (manager) of an account, any documents and information which are necessary for the monitoring of the compliance of the transactions carried out through accounts with the provisions of the legislation of the Republic of Kazakhstan, and also for ensuring the compliance with the current legislation by the authorised banks themselves. The indicated documents and information must be presented to the body of currency supervision or to the authorised bank within five days from the date of the receipt of the request to present the documents and information send by the body of the currency supervision to the address of the owner (manager) of the account by mail, telex, or facsimile.

In the case of the failure to present or to timely present the documents and information requested by the bodies and agents of the currency supervision, the non-resident owners of the accounts shall bear the responsibility which is established by the legislation of the Republic of Kazakhstan.

Section V. Transactions with Currency Assets Which Are Carried out by Physical Persons Who Are Residents and Non-Residents

5.01. Physical persons who are the residents and non-residents may have currency assets, imported, remitted or sent to the Republic of Kazakhstan from abroad, received or acquired in the territory of the Republic of Kazakhstan in accordance with the current legislation, keep them in the accounts or in deposits in the authorised banks and to use for the purposes which are not prohibited by the currency legislation of the Republic of Kazakhstan.

5.02. Export, import or forwarding abroad and from abroad of foreign currency shall be carried out in compliance with the requirements of the customs legislation. Foreign currency which is imported into the territory of the Republic of Kazakhstan may be exported abroad on the basis of the customs declaration.

5.03. Physical persons which are residents and non-residents shall have the right to use in the territory of the Republic of Kazakhstan foreign currency for the following purposes: conducting exchange transactions through the authorised banks and exchange bureaux, and also settlements with non-residents.

5.04. In the event that physical persons who are residents or non-residents are registered as entrepreneurs without formation of legal entities, currency accounts shall be opened for them in accordance with paragraphs 2.01. or 3.04 of these Rules. The regime of the use of the resources in foreign currency in those accounts shall be subject to the regime of the use which is determined by these Rules for the regime of the legal entities which are residents and non-residents.

5.05. Resources of citizens in foreign currency shall be subject to free inclusion into currency accounts and into deposits in the authorised banks.

5.06. The procedure for the use of resources in foreign currency which are in accounts in the authorised banks shall be determined by the regime of the relevant account.

Prior to the establishment by the NatBank of the Republic of Kazakhstan of the regime of the currency accounts, the provisions of the Instructions of the Vnesheconombank of the USSR, dated July 26, 1988 «Concerning the Accounts and Deposits in Foreign Currency» shall be in effect as long as they do not contradict the current legilsation and the normative acts of the NatBank of the Republic of Kazakshtan.

5.07. Citizens may open currency accounts in the authorised banks without presentation of the documents concerning the legality of the origin of foreign currency.

5.08. The resources of physical persons which are residents and non-residents in foreign currency, transferred or imported into the Republic of Kazakhstan in compliance with the customs rules or acquired in the territory of the Republic of Kazakhstan in accordance with the established procedure and which are in the accounts in the authorised banks, may without restrictions be withdrawn and transferred through the authorised banks abroad or be exported from the Republic of Kazakhstan abroad, including the departure of the owner for a permanent residence abroad.

5.09. Opening of the accounts and deposits in foreign currency abroad, keeping and transferring into them of currency resources from the Republic of Kazakhstan shall be permitted for the period of work, training and medical treatment of the residents abroad, and in otherwise with the permission of the NatBank of the Republic of Kazakhstan in agreement with the Ministry of Finance of the Republic of Kazakhstan.

5.10. Payment to the resident citizens of wages, bonuses and any types of remuneration in foreign currency by the resident legal entities in the territory of the Republic of Kazakhstan shall be permitted only in free economic zones, and also at the enterprises with 100% participation of foreign capital.

5.11. Residents may export outside the boundaries of the Republic of Kazakhstan without confirmation by appropriate documents, foreign currency to the equivalent of 500 US Dollars.

For exporting foreign currency from the Republic of Kazakhstan to the equivalent of more than 500 US Dollars, the presentation shall be necessary to the customs authorities of the Republic of Kazakhstan from the exchange bureaux of extract-certificates of the purchase of foreign currency, and of the extract-permissions from the authorised banks concerning withdrawals of the resources from the currency accounts.

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5.12. The resources in foreign currency which belong to citizens including those in the accounts and deposits in the authorised banks may be sold by them for the national currency to the authorised bank or an exchange bureau.

5.13. The monetary resources of the non-resident citizens which are received as a result of selling foreign currency to the authorised bank may be sold back to the authorised bank or exchange bureaux for foreign currency which may be freely exported or transferred abroad.

Section VI. Currency Supervision

6.01. The purpose of the currency supervision it shall be to ensure the compliance with the currency legislation by all the residents and non-residents of the Republic of Kazakhstan when they carry out currency transactions.

6.02. The main areas of the currency supervision shall be the following:

a) establishing the compliance of the conducted currency transactions with the current legilsation and the existence of the licences and permissions which are necessary for that;

b) inspection of the fulfilment by the residents of their obligations in foreign currency to the state, and also obligations in respect of selling foreign currency in the domestic currency market of the Republic of Kazakhstan;

c) inspection of the foundedness of payments in foreign currency;

d) audits of the completeness and fairness of the accounting and reporting in respect of the currency transactions, and also in respect of the transactions by the non-residents in the currency of the Republic of Kazakhstan.

Bodies and Agents of the Currency Supervision

6.03. The currency supervision in the Republic of Kazakhstan shall be carried out by the bodies of the currency supervision and their agents.

6.04. The National Bank of the Republic of Kazakhstan, the State Committee for Financial Control of the Republic of Kazakhstan, the Customs, Tax and Law-Enforcement Authorities of the Republic of Kazakhstan shall be the bodies which have the right to exercise the currency supervision within the bounds of their authority and in compliance withe the laws of the Republic of Kazakhstan.

6.05. The authorised banks shall be agents of the currency supervision, accountable to the National Bank of the Republic of Kazakhstan.

The Terms of Reference of the Bodies and Agents of the Currency Supervision

6.06. The bodies of the currency supervision within the bounds of their authority shall issue the normative acts, present the requirements (indications) concerning the elimination of identified violations and they shall undertake any other measures contemplated by the legislation which are compulsory for the execution by any residents and non-residents in the Republic of Kazakhstan.

6.07. The bodies and the agents of the currency supervision in accordance with their terms of reference shall:

a) exercise the monitoring of the currency transactions which are conducted in the Republic of Kazakhstan by residents and non-residents, and of the compliance of those transactions with the current legislation, conditions of licences and permissions, and also of the compliance by them with the acts issued by the bodies of the currency supervision;

b) carry out audits of currency transactions of residents and non-residents in the Republic of Kazakhstan.

6.08. The bodies of the currency supervision shall determine the procedure and the forms of accounting, reporting and documenting currency transactions of residents and non-residents.

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The Rights and Obligations of The Residents and Non-Residents

6.09. The residents and non-residents which carry out in the Republic of Kazakhstan the currency transactions, and also the non-residents which carry out transactions with tenge and securities, which are expressed in tenge shall have the following rights:

a) to peruse the acts of audits conducted by the bodies and agents of the currency supervision;

b) to challenge the actions of the agents of the currency supervision to the appropriate bodies of the currency supervision, and also the actions of the bodies of the currency supervision in accordance with the procedure established by the legislation of the Republic of Kazakhstan;

c) and also other rights which are stipulated in other legislative and normative acts of the Republic of Kazakshtan.

6.10. The residents and non-residents which carry out in the Republic of Kazakhstan the currency transactions, and also the non-residents which carry out the transactions with tenge and securities expressed in tenge, shall be obliged as follows:

a) to present to the bodies and agents of the currency supervision, any requested documents and information concerning the performance of the currency transactions;

b) to present to the bodies and agents of the currency supervision the explanations in the course of their conduct of audits, and also upon their results;

c) in the case of disagreement with the facts outlined in the act of an audit, which has been conducted by the bodies and agents of the currency supervision, to present written explanations of the motives of the refusal to sign that act;

d) to keep accounts and compile reports on the currency transactions which are conducted by them, ensuring their safety for not less than five years;

e) to implement the requirements (prescriptions) of the bodies of the currency supervision in respect of eliminating violations;

f) to implement other obligations which are established by the legislation of the Republic of Kazakshtan.

The Responsibility for the Violation of these Rules

6.11. The transactions which are concluded in violation of the requirements of these Rules, shall be invalid.

Anything which is received in accordance with the invalid deals and acquired as a result of illegal actions shall be confiscated for the revenue of the Republic's budget from the residents, including the authorised banks and non-residents which violated the provisions of these Rules.

6.12. The recognition of a transaction as invalid shall be carried out in accordance with the civil legislation of the Republic of Kazakhstan.

6.13. The measures of the administrative and criminal responsibility shall be applied to the persons who violated the provisions of these Rules.

The administrative responsibility shall be applicable to the residents and non-residents which violate the provisions of these Rules, where the value of the item in the illegal transaction does not exceed 500 US Dollars.

The criminal responsibility shall arise in respect of the residents for the violation of the Rules for conducting the currency transactions, where the value of the item in the illegal transaction exceeds the equivalent of 500 US Dollars.

Chairman of the National Bank of the Republic of Kazakhstan
D. Sembaev

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