

# LAW of the REPUBLICS of KAZAKHSTAN

## On Exchange Regulation and Exchange Control

(with alterations and amendments as of 04.07.2009)

### Chapter 1. GENERAL PROVISIONS

*Alterations were introduced in Article 1 according to the Law of RK dated 10.12.08 № 101-IV (it was put into effect since Januar 1, 2009) (see old version); it was stated in version of the Law of RK dated 04.07.09 № 167-IV (it put into effect after expiration of thirty calendar days after its first official publication) (see old version)*

This Law regulates social relations arising upon exercise the rights to currency valuables by residents and non-residents, and specifies the goals, objectives, and procedure for currency regulation and currency control.

#### CHAPTER 1. GENERAL PROVISIONS

##### Article 1. Basic definitions used in this Law

The Law uses the following basic concepts:

- 1) base asset – the financial instrument, indicator, or good to the price of which value of a derivative financial instruments is pegged;
- 2) currency – monetary units adopted by the states as legal tender, or official standards of value in cash and noncash form, in the form of banknotes, treasury bills, and coins, including ones made from precious metals (including those withdrawn or being withdrawn from circulation, but subject to replacement with banknotes in circulation), and also funds in accounts, including in international monetary or settlement units;
- 3) currency operations:  
operations connected with assignment of ownership and other rights to currency valuables, and also use of currency valuables as tender; carriage, mailing and transfer in and out of the Republic of Kazakhstan, of currency valuables, national currency, securities and payment documents with face value expressed in national currency, and securities without face value issued by residents;
- 4) currency valuables:  
foreign currency;  
securities and payment documents with face value expressed in foreign currency;  
securities without face value issued by nonresidents;  
refined gold in bullion;  
national currency, securities and payment documents with face value expressed in national currency, when operations are carried out therewith between residents and non-residents as well as between nonresidents;  
securities without face value issued by residents, when operations are carried out therewith between residents and non-residents as well as between nonresidents;
- 5) currency agreement – an agreement, documents of foundation, including changes and additions thereto, and also other documents on the basis and (or) in pursuance of which currency operations are carried out;
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- 6) foreign currency – currency of a foreign state, and also international monetary or settlement units;

- 7) foreign banks – banks and other financial institutions established outside of the Republic of Kazakhstan and possessing the right to carry out banking operations under legislation of the states in which they are registered;
- 8) commercial credits – deferment of payment on exports or prepayment (advance payment) on imports arranged directly between suppliers (vendors) and recipients (buyers) of goods (works, services);
- 9) national currency – currency of the Republic of Kazakhstan;
- 10) nonresidents – individuals, legal entities, their branches and representative offices not specified in sub-clause 15) of this Article;
- 11) exchange offices – specially equipped places for exchange operations with foreign currency;
- 12) transaction passport – a document of established form bearing information on a foreign economic transaction that is necessary for the recording and reporting of currency operations;
- 13) derivative financial instruments – financial instruments possessing value that may be assessed separately from the value of a base asset, and that can serve as an independent object of transactions;
- 14) direct investments – investments of money, securities, things, property rights, including rights to results of intellectual creative activities, and other property in payment for shares in (for contributions of participants to) a legal entity as a result of which ten and more percent of the voting shares (ten and more percent of the total votes of participants) of this legal entity would belong to the person making such investments;
- 15) residents:
  - citizens of the Republic of Kazakhstan, including ones located temporarily abroad or in state service on behalf of the Republic of Kazakhstan beyond its border, with the exception citizens of the Republic of Kazakhstan possessing a document entitling them for permanent residence in a foreign state issued under the laws of such foreign state;
  - foreigners and persons without citizenship possessing a document entitling them for permanent residence in the Republic of Kazakhstan;
  - all legal entities established under the legislation of the Republic of Kazakhstan located in the Republic of Kazakhstan, and also their branches and representative offices thereof located in the Republic of Kazakhstan and beyond its borders;
  - diplomatic, trade and other official representative offices of the Republic of Kazakhstan located outside of the Republic of Kazakhstan;
- 16) authorized banks – created in the Republic of Kazakhstan banks and organizations having the right to engage in certain kinds of banking operation, effecting currency operations, including on the instructions of clients, with the exception of those specified in sub-clause 17) of this Article;
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- 17) authorized organizations – legal entities established under the legislation of the Republic of Kazakhstan engaging exclusively in the activity of organizing exchange operations with foreign currency;
- 18) financial loans:
  - loans granted in monetary form (except commercial credits);
  - deposits made with banks by their subsidiaries thereof created abroad for the purposes of attracting resources in international capital markets;
  - money transferred to guarantee the performance of a debtor's obligations;
  - financing, by third persons, of the acquisition of goods (works, services) and of other transactions, and also the performance of a debtor's obligations to

creditor by third persons, as a result of which the person on behalf of which an obligation is performed becomes obligated to return money and other property with or without remuneration to the person that provided such financing and (or) performed such an obligation;

19) exports (imports) – realization of goods, performance of works, and delivery of services by a resident to a nonresident (by a nonresident to a resident).

### **Article 2. Currency Legislation of the Republic of Kazakhstan**

1. Currency legislation of the Republic of Kazakhstan shall be based on the Constitution of the Republic of Kazakhstan and it shall consist of this Law and other regulations of the Republic of Kazakhstan.

2. If an international agreement ratified by the Republic of Kazakhstan sets out the rules other than those contained herein, the rules of the international agreement shall apply.

### **Article 3. Scope of this Law**

This Law shall be effective on territory of the Republic of Kazakhstan and it shall extend to residents of the Republic of Kazakhstan and to nonresidents carrying out currency operations in the Republic of Kazakhstan.

Outside of the Republic of Kazakhstan, this Law shall extend to residents of the Republic of Kazakhstan.

## **CHAPTER 2. CURRENCY REGULATION**

### **Article 4. Goals and Objectives of Currency Regulation**

1. The goal of currency regulation shall be to facilitate implementation of state policy aimed at achieving sustained economic growth and maintaining economic security.

2. The objectives of currency regulation shall be:

1) to establish the procedures of circulation of currency valuables in the Republic of Kazakhstan;

2) to create conditions for further integration of the Republic of Kazakhstan in the global economy;

3) to maintain a database on currency operations and on capital flows.

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### **Article 5. Currency Regulation Authorities**

1. The National Bank of the Republic of Kazakhstan shall be the main currency regulation authority in the Republic of Kazakhstan.

2. The Government of the Republic of Kazakhstan and other governmental authorities shall perform currency regulation within their competence.

3. The National Bank of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan shall issue regulations obligatory for residents and nonresidents in accordance with this Law within their competences.

Regulations concerning currency regulation developed by the currency regulation authorities shall be subject to obligatory coordination with the National Bank of the Republic of Kazakhstan.

4. The National Bank of the Republic of Kazakhstan, as the main currency regulation authority, shall establish:

1) requirements on the conduct of activity by residents connected with the use of currency valuables, in accordance with Article 6 herein;

2) the procedure of currency operations by residents and nonresidents, including the regimes of currency regulation of:

licensing;

registration;

notification;

3) the procedure for the monitoring of currency operations of nonresidents engaged in activities on the territory of the Republic of Kazakhstan (currency

monitoring);

4) currency operation recording and reporting forms to be used mandatory by all residents and nonresidents, in coordination with authorized state bodies within their competences.

Currency operations for which this Law does not establish their procedure shall be carried out without restrictions.

#### **Article 6. Requirements on Conduct of Activity Connected with the Use of Currency Valuables**

1. The activities hereunder connected with the use of currency valuables shall be subject to licensing by the National Bank of the Republic of Kazakhstan:

- 1) conduct of retail trade and delivery of services for cash foreign currency;
- 2) organization of exchange operations with foreign currency by authorized organizations.

A license to engage in the activities specified in sub-clause 1) herein shall be issued to the persons doing business in the customs regime of a duty free store and aboard seagoing, inland waterway, air, rail and motor transport engaging in international carriage.

2. The National Bank of the Republic of Kazakhstan shall establish qualification requirements on the activities specified in clause 1 of this Article, and also

the procedure for registering (opening) additional trading outlets and exchange offices. A document of established format -- an exchange office registration certificate -- shall be issued upon registration of an exchange office. Additionally, the following shall be established for the authorized organizations: procedure for approving foundation documents, requirements as to composition of founders, form of incorporation, amount and procedure for establishing charter capital, limitations with regard to creating subdivisions and participation in other legal entities.

3. To obtain a license, residents shall submit to the National Bank, aside from the documents specified under the Law of the Republic of Kazakhstan "On Licensing", the documents stated in sub-clauses 1), 3) – 9) of the first part of Article 10 herein, on conditions and by procedure established by regulative act of the National Bank of the Republic of Kazakhstan.

4. Licenses to engage in activities stated in clause 1 herein shall be issued or their issuance shall be denied within 30 calendar days from the date the resident submits the complete package of documents.

When issuance of a license is denied, a reasoned written reply shall be made to the applicant.

5. The grounds for denial of a license shall be:

- 1) failure to submit document or other information foreseen in accordance with this Law;
- 2) the applicant's failure to meet requirements established in accordance with this Law;
- 3) other grounds foreseen by legislative acts of the Republic of Kazakhstan.

6. A regulative act of the National Bank of the Republic of Kazakhstan shall establish the format and procedure of submission of information on activities for which a license has been received.

#### **Article 7. Licensing of Currency Operations**

1. The National Bank of the Republic of Kazakhstan shall issue licenses for currency operations listed in Chapter 4 herein.

2. A resident participant of a currency operation shall be required to apply for a license before an account is opened or before commencement of the performance of obligations under an agreement by one of the parties, or within 30 calendar days after

expiration of period stated in the second part of clause 5, in clause 7 of Article 20, and in sub-clause 2), clause 3 of Article 25 herein.

3. To obtain a license, in addition to the documents specified in accordance with the Republic of Kazakhstan Law "On Licensing" residents shall submit to the National Bank of the Republic of Kazakhstan the documents specified in sub-clause 1)-8), 10) of the first part of Article 10 herein, on conditions and by procedure established by a regulative act of the National Bank of the Republic of Kazakhstan.

The National Bank of the Republic of Kazakhstan shall have the right to additionally request documents referenced in the submitted documents.

4. The National Bank of the Republic of Kazakhstan shall establish, in a regulative act, requirements:

1) on the volumes of currency operations subject to licensing in accordance with clause 3 of Article 22 herein;

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2) on the conditions of transaction between a resident and non-resident who possesses the right to engage in professional activity on the securities market under the laws of the state with which he is registered, in which the nonresident carries out operations subject to licensing in accordance with clause 2 of Article 22 herein on the instructions, in the interests, and on the account of a resident customer;

3) on submission of evidence of the absence of a possibility for carrying out currency operations through accounts with authorized banks in respect to operations subject to licensing in accordance with Article 25 herein.

5. Grounds for denying a license shall be:

1) failure to submit the documents or other information foreseen in accordance with this Law;

2) inconsistency of the operation with legislation of the Republic of Kazakhstan;

3) failure of the currency operation and (or) the applicant to meet requirements established in accordance with this Law;

4) the presence of tax indebtedness, past-due debt under loans extended out of budgetary funds, under government external loans, and upon the claims arising in view of performance of government guarantees – in respect to currency operations subject to licensing in accordance with Articles 22 and 25 herein;

5) other grounds foreseen by the legislative acts of the Republic of Kazakhstan.

When a license is denied, a written reasoned reply stating the reasons for denial shall be made to the applicant.

6. A regulative act of the National Bank of the Republic of Kazakhstan shall set the minimum value of a currency operation subject to licensing, and the formats and procedure of submission of information on a currency operation carried out in accordance with an issued license.

### **Article 8. Registration of Currency Operations**

1. The National Bank of the Republic of Kazakhstan shall conduct registration of currency operations stated in Chapter 4 herein.

2. Regime of registration shall include registration of a currency agreement and subsequent submission of information on the registered currency agreement by the resident.

3. A resident participant of a currency operation shall be required to apply for registration before commencement of the performance of obligations under a currency agreement by one of the parties, or within thirty calendar days after the expiration of period stated in clause 7 of Article 20 and in clause 2 of Article 23 herein, and in cases addressed in clause 5 of Article 25 herein – before commencement of operations with an account.

4. To register currency operations, residents shall submit to the National Bank of the Republic of Kazakhstan the document stated in sub-clauses 1) – 4), 6), 7) and 10) of

the first part of Article 10 herein, on conditions and by procedure established by a regulative act of the National Bank of the Republic of Kazakhstan.

The National Bank of the Republic of Kazakhstan shall have the right to request additionally documents referenced in the submitted documents.

5. Registration shall be effected within ten business days from the date the resident submits the complete package of documents.

Upon registration of a currency agreement a document of established format -- certificate of registration -- shall be issued to the applicant.

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6. Registration shall be denied in cases of:

1) submission of inaccurate information or failure to submit information specified in accordance with this Law;

2) inconsistency of an operation with the legislation of the Republic of Kazakhstan.

7. A regulative act of the National Bank of the Republic of Kazakhstan shall set the minimum amount of a transaction subject to registration, and the exceptions from the registration procedure.

#### **Article 9. Notification Regarding Currency Operations**

1. The regime of notification shall include submission to the National Bank of the Republic of Kazakhstan of information of established format on the currency agreement by resident participants of currency operations and (or) by authorized banks, and also by professional participants of the securities market carrying out currency operations on instructions from customer, and subsequent submission of information on executed operations and on changes to the currency agreement.

Resident participants of currency operations shall notify the National Bank of the Republic of Kazakhstan after negotiating of the currency agreement, but no later than seven business days after the date of commencement of performance of obligations thereunder by one of the parties, and when an account is opened with a foreign bank within a period specified in clause 2 of Article 25 herein. If a notification procedure comes to be applicable to a currency agreement in the course of the performance of obligations thereunder, notification shall be furnished no later than seven business days after the date on which the currency operations carried out under the currency agreement become subject to notification.

2. The National Bank of the Republic of Kazakhstan shall provide a resident participant of currency operations with a certification of notification within no more than ten days from the date of receipt of information on the currency agreement from such participant.

3. For the purposes of clarifying the circumstances of currency operations, the National Bank of the Republic of Kazakhstan shall have the right to request submission of a currency agreement, under which such currency transactions are performed.

4. In the absence of the certification of notification, authorized banks and (or) professional participants of the securities market shall conduct the currency operations of customers, and notify the National Bank of the Republic of Kazakhstan according to procedure established by a regulative act of the National Bank of the Republic of Kazakhstan.

#### **Article 10. Documents Required for Obtaining License and Certificate of Registration**

In keeping with requirements imposed on activities connected with the use of foreign exchange valuables, and in keeping with the requirements of currency regulation regimes established by this Law, residents shall submit to the National Bank of the Republic of Kazakhstan:

1) an application;

- 2) a copy of the currency agreement, stitched and authenticated with a signature (for individuals and legal entities) and a seal (for legal entities);
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- 3) a copy of a personal identity document (for individuals carrying out a currency operation);
- 4) a copy of certificate of state registration of a legal entity (for legal entities);
- 5) a notarized copy of foundation documents (for legal entities);
- 6) a copy of a document confirming assignment of a standard identification code issued by the authorized state statistical body of the Republic of Kazakhstan (for legal entities);
- 7) a copy of a document confirming state registration of a tax payer;
- 8) documents confirming that the applicant has met requirements, including qualification requirements, established by this Law and by regulative act of the National Bank of the Republic of Kazakhstan;
- 9) a statement from the bank showing that the resident has a foreign currency account;
- 10) copies of documents confirming origination, performance and termination of obligations under a currency agreement.

The National Bank of the Republic of Kazakhstan shall have the right to request the original documents stated in this Article from a resident for inspection.

#### **Article 11. Currency Monitoring**

1. Currency monitoring shall be performed by the National Bank of the Republic of Kazakhstan for the purposes of assessing the sustainability of the balance of payments of the Republic of Kazakhstan.

The main objectives of currency monitoring shall be:

- 1) to create the database on currency operations carried out by objects of currency monitoring;
  - 2) to improve the statistics, analysis and forecasting of balance of payments, the external debt and the international investment position of the Republic of Kazakhstan.
2. Branches and representative offices of non-resident legal entities operating in the Republic of Kazakhstan for more than one year, shall be objects of currency monitoring.

The National Bank of the Republic of Kazakhstan shall designate activities subject to currency monitoring.

3. Currency monitoring shall be conducted by way of collecting information from objects of currency monitoring on their currency operations with residents and nonresidents under the projects in progress, using established reporting forms.
4. The reporting dates and reporting forms of currency monitoring shall be established by a regulative act of the National Bank of the Republic of Kazakhstan.

#### **Article 12. Repatriation of Foreign and National Currencies**

1. Residents shall ensure, by the terms specified in the conditions of a transaction, placing to bank accounts with the authorized banks of:

- 1) national and foreign currency received by the resident in payment of export of goods (works, services);
- 2) national and foreign currency transferred by the resident in favor of a nonresident in settlement of import of goods (works, services), in the event that the nonresident fails to perform obligations and (or) performs them incompletely.

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2. Placing of domestic and foreign currency to bank accounts with authorized banks by residents shall not be required in settlements for export and import of goods (work, services) when:

- 1) currency proceeds are placed to resident's accounts with the foreign banks

intended to secure resident's obligations in accordance with conditions of a loan attracted from a nonresident;

2) currency proceeds are placed to accounts with the foreign banks intended to finance activities of resident's branches and representative offices established abroad.

3. In case of failure to receive national and foreign currency to accounts with the authorized banks in settlement of export and import of goods (works, services), the obligation of the resident on placing pursuant to this Law shall be deemed fulfilled wholly or in part when:

1) the non-resident's obligation are terminated through the offset of a counterclaim of the same kind;

2) the non-resident's obligation are terminated through the substitution of the initial obligation existing between them by another obligation between the same persons foreseeing a different object or means of performance;

3) the rights of claim to non-resident are assigned to another person;

4) indemnity is received per occurrence under agreement on insurance of risk of failure to fulfil obligations by non-resident.

4. The National Bank of the Republic of Kazakhstan shall establish uniform rules and conditions to be followed by residents of filling out export and import transaction records (transaction passports), and the procedure of export-import foreign exchange control for the purposes of ensuring fulfillment of repatriation requirements by residents. Transaction passport shall not be filled out for the contracts executed for an amount not exceeding the equivalent of ten thousand U.S. dollars on the date of the contract's execution by the exporter (importer).

5. To provide control over placing by a resident to its accounts with the authorized banks and (or) foreign banks of national and foreign currency, a contract for the export and import of goods (work, services) shall be required to state terms of performance of obligations by nonresidents.

Authorized banks conducting currency operations of residents shall have the right to demand from a resident a clarification and (or) precise statement of terms for placing of foreign currency to accounts with foreign banks.

If change occurs in obligation performance terms, or if other circumstances impacting the established terms for placing of foreign currency to accounts with authorized and (or) foreign banks arise, residents shall be required to notify authorized banks and (or) the National Bank of the Republic of Kazakhstan by submitting the relevant justifications and supporting documents.

6. Fulfilment of the requirements of this article and the justifications for not returning foreign exchange resources shall be controlled by the National Bank of the Republic of Kazakhstan jointly with bodies of the tax service and with customs and law enforcement authorities.

### **CHAPTER 3. BASIC PRINCIPLES FOR PERFORMING CURRENCY OPERATIONS**

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#### **Article 13. Currency Operations between Residents**

Currency operations between residents shall be prohibited, with the exception of:

1) operations in which one of the parties is the National Bank of the Republic of Kazakhstan and (or) the Ministry of Finance of the Republic of Kazakhstan;

2) operations with currency valuables classified as banking operations and other operations authorized banks and authorized organizations are entitled to carry out in accordance with a license issued thereto and (or) legislative acts of the Republic of Kazakhstan;

3) payment for banking services connected with currency operations, and payment of forfeits (fines, penalties) under agreements foreseeing the rendering of banking

services in foreign currency;

4) operations connected with acquisition, sale, payment of remuneration on, and (or) redemption of securities issued by residents in foreign currency, and securities issued by nonresidents;

5) payments and transfers of money under commission agreements connected with export (import), when transferable letters of credit are used as the form of payment;

6) assignment of bills denominated in foreign currency in performance of monetary obligations;

7) settlements with residents possessing, in accordance with requirements established by this Law and under regulations of the National Bank of the Republic of Kazakhstan, licenses to engage in retailing and to deliver services for cash foreign currency;

8) payment of business travel expenses of employees outside the Republic of Kazakhstan;

9) grant transfers of money or grant assignment of currency valuables by individuals to individuals, and to legal entities engaging in charitable activities under their charter;

10) deposits with banks by individuals in favor of other individuals;

11) operations connected with payment of taxes and other obligatory payments to the budget in cases specified by legislative acts of the Republic of Kazakhstan.

#### **Article 14. Currency Operations between Residents and Non-Residents**

1. Residents shall have the right to enter into transactions with nonresidents in national and (or) foreign currency by agreement between the parties in accordance with currency legislation of the Republic of Kazakhstan.

2. Residents shall have the right to issue bills denominated in foreign currency in operations with nonresidents.

3. Nonresidents shall have the unlimited right to receive and transfer dividends, remuneration, and other income received on contributions (deposits), securities, and lending and other currency operations with residents, carried out by procedure specified by this Law.

4. If currency regulation regimes are not established for the currency operations stated in articles 20-24 herein, currency operations between residents and nonresidents shall be carried out without restrictions by procedure established by the National Bank of the Republic of Kazakhstan, which shall have the right to establish a notification regime. Currency regulation regimes established by this Law shall not extend to currency operations with residents when one of the parties is the National Bank of the Republic of Kazakhstan and (or) the Ministry of Finance of the Republic of Kazakhstan.

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#### **Article 15. Currency Operation between Non-Residents**

1. Currency operations between nonresidents shall be carried out in the Republic of Kazakhstan without restrictions, provided that the requirements of Article 16 herein are met.

2. Restrictions may be imposed on currency operations between nonresidents in the Republic of Kazakhstan only in the cases specified by Article 32 herein.

#### **Article 16. Payments and Transfers of Money in Currency Operations of Residents and Non-Residents**

1. Payments and transfers of money in currency operations of residents and nonresidents shall be made through accounts with authorized banks, except in the cases of:

1) payments and transfers of money by individuals and payments and transfers of money in their favor in domestic currency in the Republic of Kazakhstan;

2) transfers of money by individuals made without opening an account with

authorized banks in accordance with clause 3 herein;

- 3) payments between individuals and legal entities licensed by the National Bank of the Republic Kazakhstan to engage in retailing and to deliver services for cash foreign currency;
- 4) payments between individuals and authorized banks or authorized organizations made through their exchange offices;
- 5) payments of wages by resident legal entities to nonresident employees, and of wages by nonresident legal entities to resident and nonresident employees in foreign currency;
- 6) payment of business travel expenses of employees outside the Republic of Kazakhstan in foreign currency by legal entities;
- 7) payments between individuals and nonresident legal entities doing business under customs control on customs territory of the Republic of Kazakhstan in airports, ports, and border crossings opened for international communication;
- 8) domestic currency payments between resident legal entities and nonresident legal entities doing business in the Republic of Kazakhstan, within the limits of the amount established by Republic of Kazakhstan legislation on money payments and transfers;
- 9) payments made through the issuance (assignment) of a check or bill;
- 10) payments and transfers of money made through accounts with foreign banks opened by procedure established by this Law;
- 11) transfers of money from accounts of nonresidents with foreign banks, made thereby in performance of the obligations of a resident, in cases foreseen by regulative act of the National Bank of the Republic of Kazakhstan.

Cash foreign currency received by resident and nonresident legal entities in foreign exchange operations carried out in the Republic of Kazakhstan shall be subject to obligatory placing to accounts with authorized banks.

2. Payments and transfers of money in currency operations in the Republic of Kazakhstan for which this Law specifies a licensing, registration, notification, and (or) issuance of transaction passport requirement shall be made only through accounts opened with authorized banks.

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3. Resident and nonresident individuals shall have the right to carry out the following within the limits of an established amount and without opening an account with authorized banks:

- 1) grant money transfers in the Republic of Kazakhstan, and out of and into the Republic of Kazakhstan (tax and license payments, fines, transfers of legacies, alimony, grants, etc.);
- 2) other money transfers out of the Republic of Kazakhstan not connected with an individual's entrepreneurial activity and for which a licensing, registration, or notification requirement has not been specified in accordance with this Law.

4. The procedure for the use and placing of cash foreign exchange to an account by residents and nonresidents, and the amount and procedure of money transfers made without opening a bank account, shall be established by regulative act of the National Bank of the Republic of Kazakhstan.

#### **Article 17. Exchange Operations with Foreign Currency**

1. Authorized banks may freely sell and buy foreign currency both in the Republic of Kazakhstan and abroad in accordance with a license issued thereto or a right granted by legislative acts of the Republic of Kazakhstan.

2. Foreign currency shall be bought and sold in the Republic of Kazakhstan by residents and nonresidents exclusively through authorized banks, their exchange offices, and the exchange offices of authorized organizations by procedure established by the

National Bank of the Republic of Kazakhstan.

**Article 18. Inward and Outward Carriage and Mailing of Foreign Exchange Valuables, Cash National Currency, Securities and Payment Documents with Face Value and (or) Value Expressed in National Currency, and Securities without Face Value Issued by Residents**

1. Resident and nonresident individuals shall have the right to carry cash foreign currency out of the Republic of Kazakhstan in an amount not exceeding the equivalent of ten thousand U.S. dollars without submitting documents confirming the origin of the exiting cash foreign currency.

When cash foreign currency is carried out of the Republic of Kazakhstan by resident and nonresident individuals in an amount exceeding the equivalent of ten thousand U.S. dollars, documents confirming the legality of its origin shall be presented to customs authorities of the Republic of Kazakhstan for the amount exceeding the equivalent of ten thousand U.S. dollars.

The list of documents confirming the legality of the origin of exiting cash foreign currency shall be established by the National Bank of the Republic of Kazakhstan.

2. Carriage of cash foreign and (or) domestic currency in and out of the Republic of Kazakhstan by resident and nonresident individuals in an amount exceeding the equivalent of three thousand U.S. dollars shall be subject to obligatory declaration to a customs authority of the Republic of Kazakhstan through the submission of a customs declaration for the entire amount of exiting or entering cash foreign and (or) domestic currency.

3. Carriage of payment documents (bills, checks, including travelers checks) with face value expressed in domestic and foreign currency in and out of the Republic of

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Kazakhstan shall not be subject to written declaration, and shall be performed without restrictions.

4. The procedure of customs clearance of inward and outward carriage of foreign exchange valuables, cash domestic currency, securities and payment documents with face value and (or) value expressed in domestic currency, and securities without face value issued by residents shall be consistent with customs legislation of the Republic of Kazakhstan.

**Article 19. The Obligation to Submit Information and Documents**

1. Residents, and nonresidents performing activities in the Republic of Kazakhstan, shall be required to submit reports, information, and documents on their currency operations to the currency regulation and control authorities and to currency control agents in fulfillment of requirements established by this Law.

2. Residents and nonresidents shall be required, when so requested by authorized banks, to state the purpose of payments and transfers of money in currency operations carried out through them, and to submit documents supporting the stated purposes of money transfers and payments in fulfillment of requirements established by this Law.

**CHAPTER 4. CAPITAL MOVEMENT OPERATIONS AND THE OPENING OF ACCOUNTS**

**Article 20. Export (Import) Settlements**

1. Currency in payment of export of goods (work, services) shall be received by residents and placed to accounts with authorized banks within 180 days from the date of export of the goods (work, services) or within 365 days from the date of export of certain goods on a list established by the Republic of Kazakhstan government.

Currency received by residents as payment for export of goods (work, services) may be placed to their accounts with foreign banks on the basis of a license from the National Bank of the Republic of Kazakhstan permitting the opening of an account with a foreign bank.

2. In the event of nonperformance of obligations by a nonresident, currency transferred by a resident in favor of the nonresident in settlement of import of goods (work, services) under the conditions of commercial credit to the nonresident shall be received by the resident and placed to accounts with authorized banks no later than 180 days after the transfer date.
3. Unless established otherwise by this article, payments between residents and nonresidents under commercial credits for a term exceeding 180 days shall be made under the registration regime.
4. Payments between residents and nonresidents under commercial credits granted by residents to nonresidents for a term exceeding 180 days shall be made under the licensing regime.
5. When goods on the list specified in item 1 herein are exported, payments between residents and nonresidents made under payment deferment conditions shall not be subject to licensing if commercial credit is granted to the nonresident by the resident for a term not exceeding 365 days.  
In cases where commercial credits are granted for a term not exceeding 365 days and the actual period of return of resources or other performance of obligations by the nonresident has exceeded 365 days, the payments between residents and nonresidents shall be subject to licensing by procedure foreseen by this Law.
6. A license from the National Bank of the Republic of Kazakhstan shall entitle the bearer to place national and foreign currency to accounts with authorized banks or other performance of obligations within a period justified by the resident.
7. The procedure established by this article for commercial credits granted for a term exceeding 180 days shall also extend to cases where commercial credits are granted for a term not exceeding 180 days and the actual period of return of resources or other performance of obligations by the resident or nonresident has exceeded 180 days.
8. Authorized banks shall have the right, under commission agreements between residents having to do with imports, to open transferable letters of credit in foreign currency in favor of residents that provide for the transfer of the letter of credit in favor of nonresidents.

#### **Article 21. Direct Investments**

Direct investments of nonresidents in the Republic of Kazakhstan and of residents abroad shall be made under the registration regime.

#### **Article 22. Participation in Authorized Capital, and Operations with Securities and Derivative Financial Instruments**

1. Unless established otherwise by this Law, residents shall be required to notify the National Bank of the Republic of Kazakhstan regarding currency operations connected with the acquisition of securities and of stakes in investment funds, with contributions to gain participation in authorized capital, and regarding operations connected with derivative financial instruments.
2. Acquisition of securities of nonresidents and stakes in nonresident investment funds by residents, contributions by residents to gain participation in the authorized capital of nonresidents, and operations with derivative financial instruments between residents and nonresidents shall be effected under the licensing regime.  
The provisions of this item shall not extend to banks, insurance organizations, organizations in the business of investment management of pension assets, and pension savings funds independently engaging in the business of investment management of pension assets (in respect to investment of pension assets thereby).
3. To permit conduct of the currency operations specified in clause 2 herein, organizations engaging in professional activity on the securities market shall be issued licenses by the National Bank of the Republic of Kazakhstan entitling them to carry out

such operations both with their own resources and with resources of customers. The provisions of this clause shall not extend to banks engaging in professional activity on the securities market.

4. The currency operations stated in clause 2 herein of resident individuals and legal entities carried out through Kazakhstani professional participants of the securities market within the limits of licenses received thereby shall be carried out without restrictions.

5. Currency operations between residents and nonresidents resulting from the exercise of rights and performance of obligations in relation to the base asset of derivative financial instruments shall be carried out under the notification regime.

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Currency operations between residents and nonresidents resulting from the exercise of rights and performance of obligations in relation to goods serving as the base asset of derivative financial instruments shall be regulated by procedure set forth in articles 12 and 20 herein.

6. Acquisition of securities of residents by nonresidents, including stakes in resident investment funds, contributions by nonresidents to gain participation in authorized capital of residents, and initial placement of securities of residents on international capital markets, to include issuance of depository receipts for the securities of residents, shall be effected under the registration regime.

7. The provisions of this article shall not extend to direct investments.

#### **Article 23. Financial Loans**

1. Financial loans of residents to nonresidents and of nonresidents to residents for a term exceeding 180 days shall be made under the registration regime.

2. The registration regime shall also extend to financial loans granted for a term not exceeding 180 days when the actual period of return of resources or other performance of obligations by the resident or nonresident has exceeded 180 days.

#### **Article 24. Other Capital Movement Operations**

1. Other capital movement operations shall include:

1) acquisition of title to immovable property, with the exception of movable property treated as immovable property under legislative acts of the Republic of Kazakhstan;

2) acquisition of an exclusive right to intellectual property;

3) transfer of money or other property in performance of the obligations of a participant of joint partnership.

2. Unless established otherwise by this article, payments of residents and payments of nonresidents in their favor connected with acquisition of title to immovable property shall be made under the notification regime.

3. Payments of resident legal entities and payments of nonresidents in their favor connected with acquisition of title to immovable property shall be made under the registration regime.

4. Payments of residents to nonresidents, and payments of nonresidents in favor of residents connected with acquisition of an exclusive right to intellectual property, and transfer and receipt of money and other property by residents in performance of the obligations of a participant of joint partnership shall be effected under the registration regime.

#### **Article 25. Accounts of Residents**

1. Residents shall open foreign currency bank accounts with authorized banks without restrictions unless foreseen otherwise by legislative acts of the Republic of Kazakhstan.

2. Unless foreseen otherwise by this article, residents shall be required to notify the National Bank of the Republic of Kazakhstan when they open accounts with foreign

banks within a period not exceeding 30 calendar days from the date of execution of an  
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agreement with the foreign bank, or from the date of return from abroad (in the case of individuals), by procedure established by the National Bank of the Republic of Kazakhstan.

The requirements of this item shall not extend to accounts opened by banks.

3. Accounts shall be opened with foreign banks by resident individuals under the licensing regime, except when:

1) accounts are opened with foreign banks located in member countries of the Organization for Economic Cooperation and Development or the Financial Action Task Force on Money Laundering;

2) accounts are opened with foreign banks located in other states during a resident individual's sojourn therein. After returning to the Republic of Kazakhstan, resident individuals shall be required to close the account with the foreign bank or apply for a license.

4. Accounts shall be opened with foreign banks by resident legal entities under the licensing regime, except when:

1) accounts are opened by banks;

2) accounts are opened with foreign banks by resident financial organizations in support of transactions with financial instruments on international securities markets;

3) accounts are opened with foreign banks by resident legal entities specifically to fund expenditures connected with the maintenance of branches and representative offices of this legal entity;

4) accounts are opened with foreign banks by resident legal entities specifically for entry of resources required in payment of authorized capital of a legal entity, if this requirement is established by legislation of the foreign state in which the resident's participation is intended;

5) accounts are opened with foreign banks by resident legal entities specifically for entry of resources guaranteeing performance of the obligations of residents to nonresidents under loans attracted from nonresidents.

A limit on the balance of resources and the conditions for use of an account with a foreign bank may be established in a license from the National Bank of the Republic of Kazakhstan.

5. The accounts stated in sub-clause 3), clause 4 herein shall be opened by resident legal entities under the registration regime.

The conditions for the use of such accounts shall be established by a regulative act of the National Bank of the Republic of Kazakhstan.

#### **Article 26. Accounts of Nonresidents**

1. Nonresidents shall open foreign and (or) national currency bank accounts with authorized banks without restrictions.

2. Nonresidents shall have the right to transfer foreign and national currency from their accounts outside the Republic of Kazakhstan to their bank accounts with authorized banks, and from their bank accounts with authorized banks to their accounts outside the Republic of Kazakhstan without restrictions.

### **CHAPTER 5. CURRENCY CONTROL**

#### **Article 27. Goals and Objectives of Currency Control**

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1. The goal of currency control shall be to ensure compliance with Republic of Kazakhstan legislation by residents and nonresidents in their currency operations.

2. The objectives of currency control shall be:

1) to determine compliance of currency operations with Republic of Kazakhstan legislation;

- 2) to verify the justifications for payments in currency operations, and the presence of the documents necessary therefor;
- 3) to verify the completeness and objectiveness of accounting and reporting of currency operations.

**Article 28. Authorities and Agents of Currency Control**

1. Currency control shall be carried out in the Republic of Kazakhstan by the National Bank of the Republic of Kazakhstan, other state bodies within the limits of powers established by laws of the Republic of Kazakhstan (currency control authorities), and currency control agents.
2. Authorized banks and authorized organizations, and other organizations obligated by their licenses to control compliance of their operations with currency legislation of the Republic of Kazakhstan, shall be currency control agents.

**Article 29. Rights and Responsibilities of Currency Control Authorities and Currency Control Agents**

1. Currency control authorities and currency control agents shall be required to control, within the limits of their competence, the currency operations of residents and nonresidents in the Republic of Kazakhstan insofar as concerns compliance of these operations with Republic of Kazakhstan legislation, the conditions of licenses, and registration and notification requirements.
2. Currency control authorities shall, within the limits of their competence:
  - 1) verify compliance of residents and nonresidents with currency legislation of the Republic of Kazakhstan;
  - 2) verify the completeness and accuracy of accounting and reporting currency operations of residents and nonresidents;
  - 3) request documents and information connected with currency operations;
  - 4) issue binding instructions to currency control agents for the purposes of achieving proper currency control;
  - 5) establish the procedure for submission of reports on currency operations and for verification of compliance with currency legislation of the Republic of Kazakhstan;
  - 6) set requirements on correcting revealed violations, and implement other measures provided by Republic of Kazakhstan legislation, which shall be binding upon all residents and nonresidents in the Republic of Kazakhstan.
3. Currency control agents shall be required:
  - 1) to control compliance with requirements of currency legislation of the Republic of Kazakhstan in their operations, including on the instructions of customers;
  - 2) to ensure completeness and objectiveness of accounting and reporting of currency operations;
  - 3) to report cases becoming known thereto of violations of currency legislation of the Republic of Kazakhstan by their customers, to the National Bank of the Republic of  
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Kazakhstan, to other currency control authorities, and to law enforcement authorities in keeping with their powers established by laws of the Republic of Kazakhstan;
  - 4) to provide information to currency control authorities on currency operations carried out with their participation, by procedure established by regulative acts of currency regulation authorities.
4. Currency control authorities and currency control agents shall be required to keep, in accordance with Republic of Kazakhstan legislation, commercial, banking, and other secrets protected by law becoming known thereto during exercise of their powers.
5. An authorized bank shall carry out money payments and transfers of a resident and (or) a nonresident only provided that the latter present documents required under this Law and regulations of the National Bank of the Republic of Kazakhstan.
6. Currency control agents shall have the right to demand, for the purposes of

currency control in accordance with this Law from residents and nonresidents carrying out currency operations:

- 1) a personal identity document (for individuals);
- 2) a document confirming the right of permanent residence in the Republic of Kazakhstan (for foreigners and persons without citizenship);
- 3) foundation documents (for legal entities);
- 4) a certificate of state registration (for legal entities);
- 5) a document confirming assignment of a standard identification code issued by an authorized state statistical body of the Republic of Kazakhstan (for legal entities);
- 6) a document confirming state registration of a taxpayer;
- 7) a currency agreement;
- 8) a license, a certificate of registration, and a certificate of notification in cases established by this Law;
- 9) a transaction passport;
- 10) documents confirming fulfilment of obligations, or the documents, based on which fulfilment of obligations under export (import) transactions is required.

7. Authorized banks shall not have the right to demand presentation of documents not related directly to a currency operation in progress.

8. Authorized banks shall refuse to carry out a currency operation if a person fails to present documents required under this Law and regulative acts of currency regulation and currency control authorities, or if a person presents untruthful documents, or if a person fails to do things established by currency legislation of the Republic of Kazakhstan.

### **Article 30. Corrective Measures and Sanctions**

1. When violations of currency legislation of the Republic of Kazakhstan by authorized banks and authorized organizations are revealed, the National Bank of the Republic of Kazakhstan shall have the right to implement corrective measures provided by laws of the Republic of Kazakhstan.

When a violation of the procedure of exchange operations with foreign currency carried out by authorized banks and authorized organizations through their exchange offices is revealed, the National Bank of the Republic of Kazakhstan shall have the right to suspend the exchange office 's registration certificate for up to six months.

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2. When violations of currency legislation of the Republic of Kazakhstan by licensees are revealed, the National Bank of the Republic of Kazakhstan shall have the right to suspend their licenses.

### **Article 31. Rights and Responsibilities of Residents and Nonresidents**

1. Residents and nonresidents carrying out currency operations in the Republic of Kazakhstan shall have the right:

- 1) to become acquainted with reports on the results of inspections conducted by currency control authorities;
- 2) to appeal the actions of currency control authorities and currency control agents by procedure established by Republic of Kazakhstan legislation;
- 3) to exercise other rights provided by Republic of Kazakhstan legislation.

2. Residents and nonresidents carrying out currency operations shall be required:

- 1) to submit to currency control authorities and currency control agents all requested documents and information on currency operations by deadlines established by regulative acts of the National Bank of the Republic of Kazakhstan;
- 2) to make explanations to currency control authorities in the course of inspections by the latter, and in respect to their results;
- 3) to maintain records and prepare reports on their currency operations, and safeguard such records and reports for a period established by regulations of the National

Bank of the Republic of Kazakhstan;

4) to fulfil the requirements (directives, orders) of currency control authorities concerning correction of revealed violations;

5) to make their premises, documents, and automated databases accessible to currency control authorities in the course of their inspections.

3. In cases established by this Law, residents shall be required to timely apply for and take all necessary steps to obtain a license, a certificate of registration, or certificate of notification of the National Bank of the Republic of Kazakhstan, and to comply with the conditions of an issued license.

## **CHAPTER 6. CONCLUDING PROVISIONS**

### **Article 32. Restrictions Imposed in the Event of a Threat to Economic Security and the Financial System's Stability**

1. In the event of a threat to the economic security of the Republic of Kazakhstan and the stability of its financial system, a special permit regime shall be introduced if the situation cannot be resolved by other instruments of economic policy.

2. The decision to introduce and extend a special permit regime, the procedure and conditions of issuing permits, and the operations that cannot be carried out without a special permit shall be determined by the President of the Republic of Kazakhstan after joint consultations with the Government of the Republic of Kazakhstan and the National Bank of the Republic of Kazakhstan.

3. A special permit regime shall be introduced for the time necessary to eliminate the threat to economic security and the financial system's stability.

A special permit shall be issued by the National Bank of the Republic of Kazakhstan provided that the operation is carried out by residents and nonresidents for the purpose of averting a threat to the life and health of citizens, to the security of the

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state, and to performance of international obligations by the Republic of Kazakhstan, and if the currency operation will facilitate a significant improvement of the situation in the balance of payments of the Republic of Kazakhstan and on the internal exchange market. A special permit shall not be required if one of the parties is the National Bank of the Republic of Kazakhstan and (or) the Ministry of Finance of the Republic of Kazakhstan.

5. Residents and nonresidents shall not have the right to carry out operations connected with the use of currency valuables to which a special permit regime extends without a special permit from the National Bank of the Republic of Kazakhstan.

### **Article 33. Liability for Violation of Currency Legislation of the Republic of Kazakhstan**

Violation of currency legislation of the Republic of Kazakhstan shall incur liability in accordance with laws of the Republic of Kazakhstan.

### **Article 34. Procedure for Enacting This Law**

1. This Law shall become effective upon expiry of six months after the date of its publication, with the exception of clause 1 of Article 12, which shall come into effect on January 1, 2007.

2. The second paragraph of sub-clause 2) of clause 4 of Article 5, Article 7, clauses 1, 2, 4-6 of Article 20, clauses 2-6 of Article 22, clause 3 of Article 24, and clauses 3-5 of Article 25 herein shall remain in effect through December 31, 2006.

3. The Law of the Republic of Kazakhstan of December 24, 1996 "On Currency Regulation" (*Bulletins of the Republic of Kazakhstan Parliament*, 1996, No. 20-21, page 404; 1997, No. 13-14, page 205; 1998, No. 16, page 219; 1999, No. 20, page 722; 2001, No. 4, page 23; 2003, No. 10, page 51; No. 11, page 56; No. 15, page 139) shall be deemed void.

*N. Nazarbaev,*

**President  
of the Republic of Kazakhstan**  
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