

## **ANNEX I**

### **Law of the Republic of Kazakhstan No. 57, June 13, 2005**

#### **On Currency Regulating and Currency Control**

This Law shall regulate social relations arising when exercising the rights for currency values by residents and non-residents, set out goals, tasks and procedure for currency regulation and currency control.

### **Chapter 1. GENERAL PROVISIONS**

#### **Article 1. Basic concepts used in this Law**

The following basic concepts shall be used in this Law:

- 1) baseline asset - means any financial instrument, parameter or commodity, to the price of which costs of any derivative is tied up;
- 2) currency – means monetary units adopted by the states as legal money, or official standards of cost in cash and non-cash-forms, banknotes, treasury notes and coins, including those made of precious metals (including those withdrawn or being withdrawn from circulation, but subject to replacement with banknotes in circulation), and also funds placed in accounts, including those denominated in international monetary or payment units;
- 3) currency transactions:  
transactions connected with transfer of title and other rights for currency valuables, and also use of currency valuables as means of payment;  
import, transmission to and transfer into the Republic of Kazakhstan, and also export, transmission from and transfer from the Republic of Kazakhstan of currency valuables, national currency, securities and payment documents, par value of which is denominated in the national currency, securities of no par value issued by residents;
- 4) currency valuables:  
foreign currency;  
securities and payment documents, par value of which is denominated in foreign currency;  
securities of no par value issued by non-residents;  
refined bar gold;  
national currency, securities and payment documents, par value of which is denominated in national currency, in the case of transactions performed with them between residents and non-residents, and also between non-residents;
- 5) currency agreement – means an agreement, foundation documents, including changes and amendments thereto, and also other documents, on the basis and/or in pursuance of which currency transactions are being performed;
- 6) foreign currency – means currency of a foreign state, and also international monetary or payment units;

- 7) foreign banks – mean banks and other financial institutions established outside of the Republic of Kazakhstan and entitled to perform banking operations under the laws of the states of incorporation;
- 8) commercial loans – mean postponement of payment for export or prepayment (advance payment) for import that takes place directly between suppliers (vendors) and recipients (buyers) of goods (works, services);
- 9) national currency – means currency of the Republic of Kazakhstan;
- 10) non-residents – mean individuals, juridical persons, their branches and representative offices not specified in Sub-clause 15) of this Article;
- 11) exchange offices – mean specifically equipped premises for conducting foreign exchange transactions;
- 12) transaction passport – means a standard document that reflects data on foreign economic transaction required for accounting and reporting purposes with regard to currency transactions;
- 13) derivatives – mean financial instruments with a value that may be estimated without regard to the value of a baseline asset, and which may represent an independent object in a transaction;
- 14) direct investments – mean investing money, securities, things, property rights, including the rights for results of intellectual creative activities, and other property in return for shares (contributions of participants) of any juridical person, as a result of which a person who makes such investments will own ten and more percent of voting shares (ten and more percent of votes of total votes of participants) of such juridical person;
- 15) residents mean:
  - citizens of the Republic of Kazakhstan, including those temporary staying abroad or serving as government employees of the Republic of Kazakhstan abroad, other than citizens of the Republic of Kazakhstan holding documents entitling them for permanent residence in a foreign state issued under the laws of such foreign state;
  - foreign citizens and stateless persons holding documents entitling them for permanent residence in the Republic of Kazakhstan;
  - all juridical persons established under the legislation of the Republic of Kazakhstan located in the Republic of Kazakhstan, and also their branches and representative offices located inside and outside of the Republic of Kazakhstan;
  - diplomatic, trade and other official representative offices of the Republic of Kazakhstan located outside of the Republic of Kazakhstan;
- 16) authorized banks – mean banks and organizations established in the Republic of Kazakhstan and entitled to perform certain types of banking operations, engaged in currency transactions, including those upon clients' instructions, other than those specified in Sub-clause 17) of this Article;
- 17) authorized organizations – mean juridical persons established under the legislation of the Republic of Kazakhstan and exclusively engaged in arranging foreign exchange transactions;
- 18) financial loans mean:

loans extended in a monetary form (except for commercial loans);  
bank deposits made by their subsidiaries established abroad for the purposes of calling for funds in international capital markets;  
money transferred to secure fulfillment of debtor's obligations;  
funding by third persons of acquisition of goods (works, services) and other transactions, and also fulfillment by third persons of debtor's obligations to creditors, as a result of which a person, for whom such obligation was fulfilled, becomes liable for paying back money and other property, with interest or without interest, to the person provided such funding and/or such fulfillment;

- 19) export (import) – means sale of goods, performance of works, rendering services by a resident to a non-resident (by a non-resident to a resident).

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

1. Currency legislation of the Republic of Kazakhstan is based on the Constitution of the Republic of Kazakhstan and comprised of this Law and other regulatory legal acts of the Republic of Kazakhstan.
2. If any international treaty ratified by the Republic of Kazakhstan sets out the rules other than those contained herein, the rules of such international treaty shall apply.

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

This Law shall be effective in the territory of the Republic of Kazakhstan and apply to residents of the Republic of Kazakhstan and non-residents engaged in currency transactions in the territory of the Republic of Kazakhstan.

This Law shall apply to residents of the Republic of Kazakhstan outside of the Republic of Kazakhstan.

## **Chapter 2. CURRENCY REGULATION**

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

1. The goal of currency regulation is to promote the national policy aimed at achieving sustained economic growth and ensuring economic safety.
2. The objectives of currency regulation are as follows:
  - 1) establishing a procedure for circulation of currency valuables in the Republic of Kazakhstan;
  - 2) creating conditions for further integration of the Republic of Kazakhstan into the world economy;
  - 3) providing database for currency transactions and flows of capital.

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

1. The National Bank of the Republic of Kazakhstan is the major currency regulation authority in the Republic of Kazakhstan.
2. The Government of the Republic of Kazakhstan and other governmental authorities shall be engaged in currency regulation within their competence.

3. The National Bank of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan, within their competences, shall issue regulatory legal acts compulsory for residents and non-residents.

Regulatory legal acts related to currency regulation and developed by the currency regulation authorities shall be subject to approval by the National Bank of the Republic of Kazakhstan.

4. The National Bank of the Republic of Kazakhstan, as the major currency regulation authority, shall set:
  - 1) requirements for performing activities involving use of currency valuables by the residents pursuant to Article 6 hereof;
  - 2) procedure for performing currency transactions by the residents and non-residents, including currency regulation regimes related to:  
licensing;  
registration;  
notification;
  - 3) procedure for monitoring over currency transactions of non-residents engaged in activities in the territory of the Republic of Kazakhstan (currency monitoring);
  - 4) accounting and reporting forms for currency transactions that are mandatory for all residents and non-residents, upon approval by the authorized state authorities within their competences.

Currency transactions, for which this Law sets no procedure, shall be performed without limitations.

#### **Article 6. Requirements to Activities Involving use of Currency Valuables**

1. The following activities involving use of currency valuables shall be subject to licensing:
  - 1) retail trade and rendering services for cash foreign currency;
  - 2) **arranging** foreign exchange transactions by the authorized entities.

The license for activities specified in Sub-clause 1) of this Clause shall be issued to the persons performing their activities in duty free shops, subject to customs treatment, and also in the sea, domestic **water**, air, railway and international motor means of transport.

2. The National Bank of the Republic of Kazakhstan shall set qualifying requirements with regard to activities specified in Clause 1 of this Article, and also the procedure for registration (opening) additional sales outlets and exchange offices. In the event of registration of an exchange office, a standard document – certificate of registration of exchange office– shall be issued. 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 juridical persons.
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 listed in Sub-clauses 1), 3) – 9) of the first part of Article 10 hereof under the terms and following the procedure as specified by the regulatory legal acts of the National Bank of the Republic of Kazakhstan.

4. Licenses for performing activities specified in Clause 1 of this Article, or dismissal of license shall be issued within thirty calendar days from the date of submission of a complete set of documents by a resident.

In the event of dismissal of license, an applicant shall be provided with a reasoned response in writing.

5. The grounds for dismissal of license are as follows:

- 1) failure to submit document or other information as provided for herein;
- 2) failure of an applicant to comply with the requirements established hereunder;
- 3) other grounds as provided for by the legislative acts of the Republic of Kazakhstan;

6. Forms and procedure for providing information with regard to the activities, for which license was issued, shall be set by a regulatory legal act of the National Bank of the Republic of Kazakhstan.

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

1. The National Bank of the Republic of Kazakhstan shall issue licenses as specified in Chapter 4 hereof.
2. A resident participant, in a currency transaction shall apply for a license prior to opening of an account or commencing fulfillment of obligations under an agreement by one of the parties, or within thirty calendar days from the expiration date specified in part two of Clause 5, Clause 7 of Article 20 and Sub-clause 2) of Clause 3 of Article 25 hereof.
3. To obtain a license, residents shall submit to the National Bank of the Republic of Kazakhstan the documents, aside from the documents specified under the Law of the Republic of Kazakhstan "On Licensing", the documents as listed in Sub-clauses 1)-8), 10) of part one of Article 10 hereof, under the terms and in the order established by the regulatory legal acts of the National Bank of the Republic of Kazakhstan.

The National Bank of the Republic of Kazakhstan may require additional documents referred to in the documents submitted.

4. The National Bank of the Republic of Kazakhstan shall establish, by a regulatory legal act, the requirements with regard to:
  - 1) amounts of currency transactions subject to licensing pursuant to Clause 3 of Article 22 hereof;
  - 2) terms of transaction between a resident and non-resident entitled to engage in professional activity in securities market under the laws of its incorporation that involves performance by a non-resident, under the instruction of, on behalf of and at the expense of a client, being a resident, of any transactions subject to licensing under Clause 2 of Article 22 hereof;

- 3) providing of justification for impossibility to perform currency transactions through the accounts with the authorized banks with regard to the transactions subject to licensing pursuant to Article 25 hereof.
5. The grounds for dismissal of license are as follows:
  - 1) failure to submit the documents or other information as provided for herein;
  - 2) incompliance of the transaction being performed with the legislation of the Republic of Kazakhstan;
  - 3) incompliance of the currency transaction being performed with and/or failure of an applicant to comply with the requirements established hereunder;
  - 4) tax indebtedness, past-due debt on loans extended out of budgetary funds, government external loans, and upon the claims arisen by virtue of execution of government guarantees, with regard to currency transactions subject to licensing pursuant to Articles 22 and 25 hereof;
  - 5) other grounds as specified by the legislative acts of the Republic of Kazakhstan.

In the event of dismissal of license, an applicant shall be provided with a reasoned response in writing with indication of the grounds for dismissal.

6. Minimum amount of currency transaction subject to licensing, and also the forms and procedure for submitting information on such currency transaction under the issued license shall be set by a regulatory legal act of the National Bank of the Republic of Kazakhstan.

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

1. The National Bank of the Republic of Kazakhstan shall conduct registration of currency transactions as specified in Chapter 4 hereof.
2. Regime of registration shall include registration of a currency agreement and subsequent submission by a resident of information on the registered currency agreement.
3. A resident participant in a currency transaction shall apply for registration prior to fulfillment of obligations under the currency agreement by one of the parties, or within thirty calendar days from the expiration date as specified in Clause 7 of Article 20 and Clause 2 of Article 23 hereof, and in cases provided for by Clause 5 of Article 25 hereof – prior to performing of transaction in an account.
4. To register currency transactions, residents shall submit to the National Bank of the Republic of Kazakhstan the document as specified in Sub-clauses 1) – 4), 6), 7), 10) of part one of Article 10 hereof, under the terms and in the order established by the regulatory legal act of the National Bank of the Republic of Kazakhstan.

The National Bank of the Republic of Kazakhstan may require additional documents referred to in the documents submitted.

5. Registration shall take ten calendar days from the date of submission by a resident of the complete set of documents.

For registration of a currency agreement, an applicant shall be provided with a standard document – certificate of registration.

6. Registration may be refused in the following cases:
  - 1) submission of inaccurate information, or failure to submit the information as specified hereunder;
  - 2) incompliance of the transaction being performed with the legislation of the Republic of Kazakhstan.
7. Minimum amount of a transaction subject to licensing, and exceptions from registration procedure shall be set by the regulatory legal act of the National Bank of the Republic of Kazakhstan.

#### **Article 9. Notifications of Currency Transactions**

1. Notification regime shall include submission to the National Bank of the Republic of Kazakhstan of the information related to currency agreement, under the established form, by resident participants, in currency transactions and/or authorized banks, and also by professional participants in securities market that perform currency transactions under the clients' instructions, and subsequent submission of information with regard to the transactions performed and changes in the currency agreement.

Resident participants in currency transactions shall notify the National Bank of the Republic of Kazakhstan after signing currency agreement, but no later than seven days after the date of commencing fulfillment of obligations thereunder by one of the parties, and in case of opening of account with a foreign bank – within a period specified in Clause 2 of Article 25 hereof. In the event if a notification procedure shall become applicable to a currency agreement during the course of fulfillment of obligations thereunder, notification shall be furnished no later than seven days from the date, when currency transactions performed under such currency agreement have become subject to notification.

2. The National Bank of the Republic of Kazakhstan shall provide a participant, being a resident, in currency transactions with a confirmation on notification within not more than ten days from the date of receipt of information on currency agreement from such participant.
3. To clarify circumstances for performing currency transactions, the National Bank of the Republic of Kazakhstan may require a currency agreement, under which such currency transactions are performed.
4. Authorized banks and/or professional participants in securities market, for want of confirmation of notification, shall perform clients' currency transactions, having notified the National Bank of the Republic of Kazakhstan under the procedure established by the regulatory legal act of the National Bank of the Republic of Kazakhstan.

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

Subject to the requirements to performance of activities involving use of currency valuables, and also under the regimes of currency regulation as established herein, the

residents shall submit to the National Bank of the Republic of Kazakhstan the following documents:

- 1) application;
- 2) copy of currency agreement bound and signed (for individuals and juridical persons) and sealed (for juridical persons);
- 3) copy of identification document (for individuals engaged in currency transaction);
- 4) copy of certificate of state registration of a juridical person (for juridical persons);
- 5) notarized copy of foundation documents (for juridical persons);
- 6) copy of a document confirming assignment of a unified identification code and issued by the authorized state statistical body of the Republic of Kazakhstan (for juridical persons);
- 7) copy of a document confirming state registration of a tax payer;
- 8) documents confirming applicant's compliance with the requirements, including qualification requirements established herein and by the regulatory legal acts of the National Bank of the Republic of Kazakhstan;
- 9) statement from the bank on availability of resident's foreign currency account;
- 10) copies of documents confirming creation, execution and termination of obligations under the currency agreement.

The National Bank of the Republic of Kazakhstan may require a resident to provide originals of the documents specified in this Article for the purposes of familiarization.

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

1. Currency monitoring shall be exercised by the National Bank of the Republic of Kazakhstan for the purposes of evaluating stability of balance of payments of the Republic of Kazakhstan.

Major objectives of currency monitoring are as follows:

- 1) creation of database with regard to currency transactions performed by the objects of currency monitoring;
- 2) improvement of statistics, analysis and forecasting of balance of payments, foreign debt and international investment position of the Republic of Kazakhstan.
2. Branches and representative offices of juridical persons, being non-residents, that operate in the territory of the Republic of Kazakhstan for over one year, shall be the 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 from the objects of currency monitoring of any information on their currency transactions with residents and non-residents under the projects being implemented, in accordance with the established reporting forms.
4. Reporting dates and forms for the purposes of currency monitoring shall be established by the regulatory legal act of the National Bank of the Republic of Kazakhstan.

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



1. Residents shall ensure, within the periods provided for by the terms of a transaction, placing to bank accounts with the authorized banks of:
  - 1) national and foreign currency received by a resident as payment for export of goods (works, services);
  - 2) national and foreign currency transferred by a resident in favor of a non-resident for making payments for import of goods (works, services), in the event of failure to fulfill and/or incomplete fulfilment of obligations by the non-resident.
2. Resident shall not be required to place to bank accounts with the authorized banks of national and foreign currency when making payments for export, import of goods (works, services) in the following cases:
  - 1) placing currency proceeds to resident's accounts with the foreign banks intended to secure resident's obligations under the terms of the loan from a non-resident;
  - 2) placing currency proceeds to accounts with the foreign banks intended to secure operations of branches and representative offices opened abroad.
3. In case of failure to receive national and foreign currency to accounts with the authorized banks when making payments for export, import of goods (works, services), obligation on placing hereunder shall be deemed fulfilled, partially or fully, in the event of:
  - 1) termination of non-resident's obligation by offsetting of homogeneous counter-claim;
  - 2) termination of non-resident's obligation by replacing the initial obligation existed between them with another obligation contemplating different subject or way of performance between the same persons;
  - 3) assignment of right of claim to non-resident;
  - 4) receipt of insurance compensation 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 terms for obtaining by residents of passports for import and export transactions and the procedure for exercising export and import currency control to ensure fulfilment of the repatriation requirement by the residents.

Transaction passport shall not be issued for the contracts signed for the amount not in excess of an equivalent of ten thousand US Dollars as of the date of signing the contract by an 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 contemplating export, import of goods (works, services) shall provide for a timeframe for fulfillment of obligations by non-residents.

The authorized banks performing currency transactions for residents may require a resident to clarify and/or to set precise a period for placing foreign currency to the accounts with the authorized banks.

In the event of changing timeframe for fulfillment of obligations, occurrence of another circumstances affecting the established timeframe for placing foreign currency to the accounts with the authorized banks and/or foreign banks, residents shall be obliged to notify the authorized banks and/or the

National Bank of the Republic of Kazakhstan by furnishing relevant justification and supporting documents.

6. The National Bank of the Republic of Kazakhstan in conjunction with tax authorities, customs and law enforcement bodies, shall exercise control over compliance with the requirements of this Article and relevancy of non-repayment of currency.

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

#### **Article 13. Currency Transactions Between Residents**

Currency transactions between residents shall be prohibited, except for:

- 1) transactions, one of the parties of which is the National Bank of the Republic of Kazakhstan and/or the Ministry of Finance of the Republic of Kazakhstan;
- 2) transactions with currency valuables categorized as banking operations and other operations, which may be performed by the authorized banks and authorized organizations in accordance with the license issued to them and/or legislative acts of the Republic of Kazakhstan;
- 3) payment for bank services related to performance of currency transactions, and also payment of fines (penalties) under the agreements contemplating bank services in foreign currency;
- 4) transactions connected with acquisition, sale, interest payment and/or repayment for securities issued by residents in foreign currency, and securities issued by non-residents;
- 5) payments and transfers of funds under the commission agreements related to export (import), when using transferable letters of credit as a form of payment;
- 6) transfer of bills of exchange expressed in foreign currency as fulfillment of monetary obligations;
- 7) settlements with residents holding licenses for retail trade and rendering services for cash foreign currency received in compliance with the requirements established herein and the regulatory legal acts of the National Bank of the Republic of Kazakhstan;
- 8) payment for expenses for business trips made by employees outside of the Republic of Kazakhstan;
- 9) free money transfers or gratuitous transfer of currency valuables by any individuals to individuals, and also to juridical persons, charter activities of which are aimed at conducting charities;
- 10) making bank deposits by individuals in favor of individuals;
- 11) transactions in connection with payment of taxes and other obligatory payments to budget in cases as provided for by the legislative acts of the Republic of Kazakhstan.

#### **Article 14. Currency Transactions Between Residents and Non-Residents**

1. Residents may perform transactions with non-residents in national and/or foreign currency, as agreed by the parties, pursuant to the currency legislation of the Republic of Kazakhstan.
2. Residents may issue, when performing transactions, bills of exchange expressed in foreign currency.

3. Non-residents may, without limitations, receive and transfer dividends, interest and other income received on deposits, securities, borrowed and other currency transactions with residents performed as specified herein.
4. If no regimes of currency regulation are established with regard to currency transactions specified in Articles 20-24 hereof, currency transactions between residents and non-residents shall be performed without limitations under the procedure established by the National Bank of the Republic of Kazakhstan, which may set a regime of notification.

Regimes of currency regulation set herein shall not apply to currency transactions with non-residents, one of the parties of which shall be the National Bank of the Republic of Kazakhstan and/or the Ministry of Finance of the Republic of Kazakhstan.

#### **Article 15. Currency Transactions Between Non-Residents**

1. Currency transactions between non-residents in the territory of the Republic of Kazakhstan shall be performed without limitation, subject to the requirements as specified in Article 16 hereof.
2. Limitations for performing currency transactions between non-residents in the territory of the Republic of Kazakhstan may only be imposed in the cases specified in Article 32 hereof.

#### **Article 16. Payments and Money Transfers on Currency Transactions of Residents and Non-Residents**

1. Payments and money transfers on currency transactions of residents and non-residents shall be made in the accounts with the authorized banks, except for:
  - 1) payments and money transfers of individuals, and also payments and money transfers in favor of the latter in national currency in the territory of the Republic of Kazakhstan;
  - 2) transfers of money of individuals made without opening any accounts with the authorized banks, pursuant to Clause 3 of this Article;
  - 3) payments between individuals and juridical persons holding licenses of the National Bank of the Republic of Kazakhstan for retail trade and rendering services for cash foreign currency;
  - 4) payments between individuals and the authorized banks or authorized organizations performed through exchange offices;
  - 5) payment by resident juridical persons of wages to employees, being non-residents, and also by juridical persons, being non-residents, of wages to resident and non-resident employees in foreign currency;
  - 6) payment by juridical persons of expenses in connections with business trips of employees outside of the Republic of Kazakhstan, in foreign currency;
  - 7) payments between individuals and juridical persons, being non-residents, performing their operations under the customs control and in the customs territory of the Republic of Kazakhstan in airports, ports and frontier crossings opened for international traffic;
  - 8) payments between resident juridical persons performing their operations in the territory of the Republic of Kazakhstan, in national currency within the amount as set by the legislation of the Republic of Kazakhstan with regard to payments and money transfers;

- 9) payments by issuance (transfer) of checks, bills of exchange;
- 10) payments and money transfers made through the accounts with foreign banks opened under the procedure established herein;
- 11) money transfers from non-residents' accounts with foreign banks made by them for fulfillment of residents' obligations in the cases provided for by the regulatory legal act of the National Bank of the Republic of Kazakhstan.

Cash foreign currency received by resident and non-resident juridical persons when performing currency transactions in the territory of the Republic of Kazakhstan shall be subject to obligatory placement with the authorized banks.

2. Payments and money transfers on currency transactions in the territory of the Republic of Kazakhstan, for which the requirement for licensing, registration, notification and/or issuance of a transactions passport is established herein, shall be made only through the accounts opened with the authorized banks.
3. Resident and non-resident individuals may perform, within their competences, the following transactions without opening accounts with the authorized banks:
  - 1) free money transfers in the territory of the Republic of Kazakhstan, from the Republic of Kazakhstan and in the Republic of Kazakhstan (tax payments, royalty payments, fines, transfers of heritage amounts, alimonies, grants etc.);
  - 2) other money transfers from the Republic of Kazakhstan not connected with performance of entrepreneurial activities by an individual, and for which no requirement for licensing, registration, notification is established herein.
4. Procedure for use and placing to an account of cash foreign currency by residents and non-residents, and also amount and procedure for making money transfers without opening a banks account shall be established by the regulatory legal acts of the National Bank of the Republic of Kazakhstan.

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

1. Authorized banks may freely sale and purchase foreign currency both inside and outside of the Republic of Kazakhstan in accordance with the license issued to the latter or the right granted under the legislative acts of the Republic of Kazakhstan.
2. Sale and purchase of foreign currency in the Republic of Kazakhstan shall be made by residents and non-residents exclusively through the authorized banks, their exchange offices, and also exchange offices of the authorized organizations under the procedure established by the National Bank of the Republic of Kazakhstan.

#### **Article 18. Import and Export, Transmission of Currency Valuables, Cash National Currency, Securities and Payment Documents, Par Value and/or Value of Which Is Expressed In National Currency, Unvalued Securities Issued by Residents**

1. Resident and non-resident individuals may export from the Republic of Kazakhstan cash foreign currency in the amount not in excess of an equivalent

of ten thousand US Dollars without providing any documents confirming origination of cash foreign currency being exported.

When exporting cash foreign currency from the Republic of Kazakhstan by resident and non-resident individuals in the amount in excess of an equivalent of ten thousand US Dollars, the documents confirming legality of their origination in the amount in excess of an equivalent of ten thousand US Dollars shall be submitted to the customs authorities of the Republic of Kazakhstan.

List of documents confirming legality of origination of cash foreign currency exported shall be set by the National Bank of the Republic of Kazakhstan.

2. Import and export in and from the Republic of Kazakhstan by resident and non-resident individuals, of cash foreign and/or national currency in the amounts in excess of an equivalent of three thousand US Dollars shall be subject to obligatory declaration with the tax customs of the Republic of Kazakhstan by filing a customs declaration for total amount of exported or imported cash foreign and national currency.
3. Import and export in and from the Republic of Kazakhstan of payments documents (bills of exchange, checks, including travel checks), par value of which is expressed in national and foreign currency shall not be subject to written declaration and may be performed without limitations.
4. Customs procedure for import and export of currency valuables, cash national currency, securities and payment documents, par value and/or value of which is expressed in national currency, and also unvalued securities issued by residents shall be in accordance with the customs legislation of the Republic of Kazakhstan.

#### **Article 19. Obligation on Submission of Information and Documents**

1. Residents, and also non-residents, performing activities in the territory of the Republic of Kazakhstan shall be obliged to submit reports, information and documents with regard to currency transactions performed by such residents and non-residents to the currency regulation and control authorities and currency control agents for the purposes of compliance with the requirements established herein.
2. Residents and non-residents shall, upon request from the authorized banks, specify purposes of payments and money transfers on the currency transactions performed through such authorized banks, and also submit documents confirming the specified purposes of payments and money transfers, to meet the requirements established herein.

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

### **Article 20. Payments for Export (Import)**

1. Currency in return for export of goods (works, services) shall be received by residents and placed to accounts with the authorized banks within 180 days from the date of export of goods (works, services) or within 365 days from the date of export of certain goods, the list of which shall be set by the Government of the Republic of Kazakhstan.

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

2. Currency transferred by a residents in favor of a non-resident for making payments for import of goods (works, services) under a commercial loan extended to a non-resident, in case of non-resident's failure to fulfill obligations, shall be received by the resident and placed to the accounts with the authorized banks no later than 180 days from the date of transfer.
3. Unless otherwise provided for by this Article, payments between residents and non-residents under commercial loans for the period of more than 180 days shall be made subject to registration regime.
4. Payments between residents and non-residents under commercial loans extended by residents to non-residents for the period of more than 180 days shall be made subject to licensing regime.
5. When exporting goods listed in Clause 1 of this Article, payments between residents and non-residents on the terms of deferred payment, shall not be subject to licensing in case if a commercial loan is extended by a resident to a non-resident for the period of more than 365 days.

If actual period of repayment of funds or any other fulfillment of non-resident's obligations under commercial loans extended for the period of more than 365 days has exceeded 365 days, payments between residents and non-residents shall be subject to licensing under the procedure established herein.

6. The license of the National Bank of the Republic of Kazakhstan shall entitle to place national and foreign currency to the accounts with the authorized banks or any other fulfillment of obligations within the periods as justified by a resident.
7. The procedure established in this Article with regard to commercial loans extended for a period of more than 180 days shall apply also to the cases when actual period of repayment of funds or any other fulfillment of resident's or non-resident's obligations under commercial loans extended for a period of not more than 180 days, has exceeded 180 days.
8. The authorized banks, under commission loans between residents connected with import shall be entitled to open transferable letters of credit in foreign currency in favor of residents, which provides for transfer of a letter of credit in favor of non-residents.

## **Article 21. Direct Investments**

Direct investments of non-residents in the Republic of Kazakhstan and residents outside of the Republic of Kazakhstan shall be made subject to the registration regime.

## **Article 22. Participation in Charter Capital, Transactions with Securities and Derivatives**

1. Unless otherwise provided for herein, residents shall be obliged to notify the National Bank of the Republic of Kazakhstan on currency transactions connected with acquisition of securities, shares in investment funds, making contributions to ensure participation in a charter capital, and also on the transactions connected with derivatives.
2. Acquisition of non-residents' securities by residents, shares in investment funds, being non-residents, making contributions by residents to ensure participation in a charter capital of non-residents, and also transactions with derivatives between residents and non-residents shall be made under the licensing regime.

Provisions of this Clause shall not apply to the banks, insurance companies, and also organizations engaged in investment management of pension funds, and accumulation pension funds independently engaged in investment management of pension assets (in the event of investing pension assets).

3. Organizations engaged in professional activities in securities market for performance of currency transactions specified in Clause 2 of this Article shall obtain licenses from the National Bank of the Republic of Kazakhstan entitling them to perform such transactions both at the expense of their own funds and client's funds.

Provisions of this Clause shall not apply to the banks engaged in professional activities in securities market.

4. Currency transactions specified in Clause 2 of this Article performed by individuals and juridical persons through Kazakhstani professional participants of securities market pursuant to the licenses obtained by them shall be performed without limitations.
5. Currency transactions between residents and non-residents performed as a result of exercising the rights and obligations with regard to a baseline asset of derivatives shall be performed under the notification regime.

Currency transactions between residents and non-residents performed as a result of exercising the rights and obligations with regard to the goods being a baseline asset of derivatives shall be regulated under the procedure as specified by Articles 12 and 20 hereof.

6. Acquisition of residents' securities by non-residents, including shares in resident investment funds making contributions by non-residents to ensure participation in a charter capital of residents, and also initial offer of residents' securities in international securities markets, including issuance of depositary receipts for residents' securities shall be made under the registration regime.
7. Provisions of this Article shall not apply to direct investments.

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

1. Financial loans of residents to non-residents and financial loans of non-residents to residents for a period of more than 180 days shall be extended under the registration regime.
2. Registration regime shall also apply to financial loans extended for a period of not more than 180 days, in case if actual period of repayment or any other fulfillment of resident's or non-resident's obligations has not exceeded 180 days.

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

1. Other capital movement operations are as follows:
  - 1) acquisition of ownership right for immovable property, other than movables categorized as immovable property by the legislative acts of the Republic of Kazakhstan;
  - 2) acquisition of exclusive right for objects of intellectual property;
  - 3) transfer of money and other property in execution of obligations of a participant in joint venture.
2. Unless otherwise is provided for by this Article, payments of residents, and also payments of non-residents in their favor connected with acquisition of the right of ownership for immovable property shall be made under the notification regime.
3. Payments of resident juridical persons and also payment of non-residents in their favor connected with acquisition of the right of ownership for immovable property shall be made under the registration regime.
4. Payments of residents to non-residents, payments of non-residents in favor to residents connected with acquisition of the exclusive right for objects of intellectual property, and also transfer and receipt by residents of money and other property in execution of obligations of a participant in joint venture shall be made under the registration regime.

### **Article 25. Residents' Accounts**

1. Residents shall open bank accounts in foreign currency with the authorized banks without limitations, unless otherwise is provided for by the legislative acts of the Republic of Kazakhstan.
2. Unless otherwise is provided for by this Article, residents shall notify the National Bank of the Republic of Kazakhstan on opening accounts with foreign banks within no more than thirty calendar days from the date of signing an agreement with a foreign bank, or from the date of returning from abroad (for individuals) under the procedure established by the National Bank of the Republic of Kazakhstan.

Requirements of this Clause shall not apply to opening account by banks.

3. Resident individuals shall open banks accounts with foreign banks under the licensing regime, except for:



- 1) opening accounts with foreign banks located in the states that are the Members of Organization for Economic Cooperation and Development or Financial Action Task Force;
  - 2) opening accounts with foreign banks located in other states during stay of an individual in the territory of such states. After returning to the Republic of Kazakhstan, resident individuals shall close their accounts with a foreign bank or apply for a license.
4. Resident juridical persons shall open bank accounts with foreign banks under the licensing regime, except for:
- 1) opening accounts by banks;
  - 2) opening accounts with foreign banks by resident financial organizations to perform transactions with financial instruments in international securities market;
  - 3) opening of accounts by resident juridical persons with foreign banks for the purposes of funding expenses connected with running branches and representative offices of such juridical person;
  - 4) opening accounts by resident juridical persons with foreign banks for the purposes of placing funds for payment in a charter capital of a juridical person, if so established by the laws of a foreign state of anticipated participation of a resident;
  - 5) opening of accounts by resident juridical persons with foreign banks for the purposes of placing funds to secure residents' obligations to non-residents on loans received from non-residents.

Limit of account balance and terms of use of an account with a foreign bank may be set in a license issued by the National Bank of the Republic of Kazakhstan.

5. Resident juridical persons shall open bank accounts specified in Sub-clause 3) of Clause 4 of this Article under the registration regime.  
Terms of use of such accounts shall be established by the regulatory legal act of the National Bank of the Republic of Kazakhstan.

#### **Article 26. Non-Residents' Accounts**

1. Non-residents may open bank accounts in foreign and/or national currency with the authorized banks without limitations.
2. Non-residents may transfer foreign currency and national currency from their accounts outside of the Republic of Kazakhstan to their bank accounts with the authorized banks, and also from their bank accounts with the authorized banks to their accounts outside of the Republic of Kazakhstan without limitations.

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

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

1. The goals of currency control is to ensure that residents and non-residents of the Republic of Kazakhstan comply with the legislation of the Republic of Kazakhstan when performing currency transactions.
2. Objectives of currency control are as follows:
  - 1) ensuring compliance, when performing currency transactions, with the legislation of the Republic of Kazakhstan;

- 2) verification of validity of payments made under currency transactions and availability of the documents required for making such payments;
- 3) verification of completeness and objectivity of maintaining records and providing reports with regard to currency transactions.

#### **Article 28. Bodies and Agents of Currency Control**

1. Currency control in the Republic of Kazakhstan shall be exercised by the National Bank of the Republic of Kazakhstan, other government agencies within competences as specified by the laws of the Republic of Kazakhstan (currency control authorities), and currency control agents.
2. The currency control agents are the authorized banks and authorized organizations, and also other organizations responsible, under the licenses obtained, to exercise control over compliance with the currency legislation of the republic of Kazakhstan, when performing transactions.

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

1. The currency control authorities and currency control agents shall, within their competences, exercise control over currency transactions performed by residents and non-residents in the Republic of Kazakhstan with regard to compliance, when performing such transactions, with the legislation of the Republic of Kazakhstan, terms of licenses, requirements on registration and notification.
2. Within their competences, the currency control authorities shall:
  - 1) conduct audits with regard to compliance by residents and non-residents with the currency legislation of the Republic of Kazakhstan;
  - 2) conduct audits with regard to completeness and accuracy of maintaining records and providing reports with regard to currency transactions performed by residents and non-residents;
  - 3) request documents and information related to performing currency transactions;
  - 4) give mandatory instructions to the currency control agents to ensure that currency control is exercised in a proper manner;
  - 5) establish procedure for submitting reports on currency transactions and conducting audits with regard to compliance with the currency legislation of the Republic of Kazakhstan;
  - 6) impose requirements on eliminating any violations revealed and take other measures as provided for by the legislation of the Republic of Kazakhstan, which shall be mandatory for all residents and non-residents in the Republic of Kazakhstan.
3. The currency control agents shall be obliged to:
  - 1) exercise control over compliance with the requirements of the currency legislation of the Republic of Kazakhstan when performing transactions, including those performed upon clients' instructions;
  - 2) ensure completeness and objectivity of maintaining records and providing reports on currency transactions;
  - 3) report on the known facts of violations of the currency legislation of the Republic of Kazakhstan committed by their clients, to the National Bank

- of the Republic of Kazakhstan and also to other currency control authorities and law enforcement agencies in accordance with their competences established by the laws of the Republic of Kazakhstan;
- 4) provide the currency control authorities with the information on currency transactions performed with their participation under the procedure established by the regulatory legal acts of the currency regulation authorities.
  4. The currency control authorities and currency control agents shall be obliged to keep, under the legislation of the Republic of Kazakhstan, commercial, bank and other secrets protected by law that became known by such authorities and agents when exercising their powers.
  5. An authorized bank shall make transfers of money of a resident and/or a non-resident only provided that the latter submit the documents required hereunder and under the regulatory legal acts of the National Bank of the Republic of Kazakhstan.
  6. To exercise currency control, the currency control agents hereunder may require residents and non-residents to submit the following documents, when performing currency transactions:
    - 1) ID card (for individuals);
    - 2) document confirming the right of permanent residence in the Republic of Kazakhstan (for foreigners and stateless persons);
    - 3) foundation documents (for juridical persons);
    - 4) certificate of state registration (for juridical persons);
    - 5) document confirming assignment of unified identification code issued by an authorized statistical body of the Republic of Kazakhstan (for juridical persons);
    - 6) document confirming state registration of a taxpayer;
    - 7) currency agreement;
    - 8) license, certificate of registration, certificate of notices in cases established herein;
    - 9) transaction passport;
    - 10) documents confirming fulfillment of obligations, or the documents, based on which fulfillment of obligations under export (import) transactions is required.
  7. The authorized banks may not require submission of the documents not related directly to a currency transaction being performed.
  8. The authorized banks shall reject performance of a currency transaction in case of a person's failure to submit the documents required hereunder and under the regulatory legal acts of the currency regulation authorities and currency control authorities, or submission of inaccurate documents, or failure to take actions as specified by the currency regulation of the Republic of Kazakhstan.

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

1. In case of any revealed violations of the currency legislation of the Republic of Kazakhstan by the authorized banks and authorized organizations, the National Bank of the Republic of Kazakhstan may apply enforcement measures provided for by the laws of the Republic of Kazakhstan.

In case of revealing any violation of the procedure for performing exchange transaction with foreign currency committed by the authorized banks and authorized organizations through their exchange offices, the National Bank of the Republic of Kazakhstan may suspend certificate of registration of a exchange office for up to six months.

2. In case of any revealed violations of the currency legislation of the Republic of Kazakhstan by the licensees, the National Bank of the Republic of Kazakhstan may suspend their licenses.

### **Article 31. Rights and Obligations of Residents and Non-Residents**

1. Residents and non-residents performing currency transactions in the Republic of Kazakhstan may:
  - 1) check reports on results of audits conducted by the currency control authorities;
  - 2) appeal actions of the currency control authorities and currency control agents under the procedure established by the legislation of the Republic of Kazakhstan;
  - 3) exercise other rights as provided for by the legislation of the Republic of Kazakhstan.
2. Residents and non-residents performing currency transactions shall be obliged to:
  - 1) provide the currency control authorities and currency control agents with all required documents and information regarding related to performance of currency transactions, within the timeframe specified by the regulatory legal acts of the National Bank of the Republic of Kazakhstan;
  - 2) provide the currency control authorities with explanation during the course of the audits, and also based on the results of such audits;
  - 3) maintain records and generate reports with regard to the currency transactions performed, ensuring safe-keeping of such records and reports within the timeframe specified by the regulatory legal acts of the National Bank of the Republic of Kazakhstan;
  - 4) fulfill the requirements (instructions, directives) of the currency control authorities with regard to any violations revealed;
  - 5) provide the currency control authorities with access to their premises, documents and automated databases during the course of audits.
3. As specified herein, residents shall timely apply and undertake all necessary measures to obtain licenses, certificates of registration, confirmation of notification of the National bank of the Republic of Kazakhstan, and also comply with the terms of the issued licenses.

## **CHAPTER 6. CLOSING PROVISIONS**

### **Article 32. Restriction In Case Of Economic Safety Risk and Risk for Financial System Stability**

1. In case of economic safety risk in the Republic of Kazakhstan and risk for its financial system stability, regime of special authorization shall be introduced, unless otherwise resolved through other instruments of economic policy.

2. Decision on introduction, extension of the regime of special authorization, procedure and conditions for issuing authorizations, and also the transactions that cannot be performed without special authorization, shall be made by the President of the Republic of Kazakhstan, upon joint consultations with the Government of the Republic of Kazakhstan and the National Bank of the Republic of Kazakhstan.
3. Regime of special authorization shall be introduced for the period required for elimination of economic safety risks and risks for financial system stability.
4. Special authorization shall be issued by the National Bank of the Republic of Kazakhstan provided that a transaction is performed by residents and non-residents for the purposes of prevention of risk for life and health of citizens, national safety, fulfillment by the Republic of Kazakhstan of its international obligations, and also if performance of a currency transaction will facilitate significant improvement of balance of payments of the Republic of Kazakhstan and in domestic currency market.

Special authorization shall not required if the National Bank of the Republic of Kazakhstan and/or the Ministry of Finance of the Republic of Kazakhstan acts as one of the parties.

5. Residents and non-residents may not perform transactions involving use of currency valuables subject to the regime of special authorization without special authorization of the National Bank of the Republic of Kazakhstan.

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

Violation of currency legislation of the Republic of Kazakhstan shall entail responsibility as specified by the laws of the Republic of Kazakhstan.

### **Article 34. Procedure For Introduction Into Force Of This Law**

1. This Law shall become effective upon expiry of six months after the day of publication, except for Clause 1 of Article 12, which shall become effective from January 1, 2007.
2. Paragraph two 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, Clauses 3-5 of Article 25 hereof shall be in effect through December 31, 2006.
3. The Law of the Republic of Kazakhstan of December 24, 1996 “On Currency Regulation” (Bulletins of the Parliament of the Republic of Kazakhstan, 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**