

## On currency regulation and currency control

### *Unofficial translation*

Law of the Republic of Kazakhstan dated July 2, 2018 No. 167-VI ZRK.

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This Law shall regulate social relations, related to the implementation of currency transactions, define the goals, objectives of currency regulation and currency control.

## Chapter 1. GENERAL PROVISIONS

### Article 1. Basic concepts and terms used in this Law

1. The following basic concepts shall be used in this Law:

1) an exchange office - a specially equipped place for carrying out exchange operations with foreign currency in cash, created by an authorized organization or an authorized bank that has the right to carry out exchange operations with foreign currency in cash in the Republic of Kazakhstan on the basis of a license of the National Bank of the Republic of Kazakhstan or an authorized body for regulation, control and supervision of the financial market and financial organizations or the laws of the Republic of Kazakhstan;

2) currency values:

foreign currency;

securities and payment documents whose face value is expressed in a foreign currency;

non-par value securities, issued by non-residents of the Republic of Kazakhstan;

refined gold bullions;

national currency, securities and payment documents, the value of which is expressed in the national currency, in the cases of making transactions with them between residents of the Republic of Kazakhstan and non-residents of the Republic of Kazakhstan and between non-residents of the Republic of Kazakhstan, as well as their export (transfer) from the Republic of Kazakhstan or import (transfer) to the Republic of Kazakhstan;

non-par value securities, issued by residents of the Republic of Kazakhstan, in the cases of making transactions with them between residents of the Republic of Kazakhstan and non-residents of the Republic of Kazakhstan and between non-residents of the Republic of Kazakhstan, as well as their export from the Republic of Kazakhstan or import into the Republic of Kazakhstan;

3) currency transactions:

transactions, related to the transfer of ownership and other rights to currency values, as well as the use of currency values as a means of payment;

import, sending and transfer to the Republic of Kazakhstan, as well as export, sending and transfer of currency values from the Republic of Kazakhstan;

transfer of currency values to trust management;

transfer of currency values on the basis of a brokerage services contract;

4) foreign exchange contract – the contracts, constituent documents, including amendments and (or) additions thereto, as well as other documents, on the basis of and (or) pursuant to which the currency operations are carried out;

5) account number - an identification number assigned to a foreign exchange contract or account in a foreign bank by the National Bank of the Republic of Kazakhstan or an authorized bank and intended to provide accounting and reporting on currency transactions;

6) import - transfer of goods by a non-resident of the Republic of Kazakhstan to a resident of the Republic of Kazakhstan, partial transfer of exclusive rights to objects of intellectual property, performance of works, provision of services by a non-resident of the Republic of Kazakhstan to a resident of the Republic of Kazakhstan, transfer of property to lease by a non-resident of the Republic of Kazakhstan to a resident of the Republic of Kazakhstan;

7) refined gold bullions – gold, obtained as a result of refining and made in the form of dimensional and standard ingots, related to the investment gold in accordance with the Law of the Republic of Kazakhstan "On precious metals and precious stones";

8) the authorized banks – the banks, established in the Republic of Kazakhstan and organizations that carry out certain types of banking operations (except for the authorized organizations), as well as branches of foreign banks, operating in the Republic of Kazakhstan that conduct currency transactions, including at the instructions of clients;

9) the authorized organizations - financial organizations of the Republic of Kazakhstan, which are not banks, operating exclusively through exchange offices on the basis of a license of the National Bank of the Republic of Kazakhstan for exchange operations with foreign currency in cash;

10) national currency:

currency notes in the form of banknotes and coins of the National Bank of the Republic of Kazakhstan that are in circulation and are the legal means of payment on the territory of the Republic of Kazakhstan, and those withdrawn or recallable from circulation, but subject to exchange for banknotes in circulation;

money in bank accounts in monetary units of the Republic of Kazakhstan;

11) foreign currency:

currency notes in the form of banknotes, coins that are in circulation and are the legal means of payment on the territory of a foreign state (group of states), as well as withdrawn or recallable from circulation, but subject to exchange for banknotes in circulation;

money in bank accounts in the monetary units of foreign states (group of states) and international monetary or payment units;

12) foreign banks - banks and other financial institutions, established in accordance with the legislation of foreign states and carrying out banking activities outside the Republic of Kazakhstan on the basis of the legislation of the countries where they are registered;

13) export - transfer of goods by a resident of the Republic of Kazakhstan to a non-resident of the Republic of Kazakhstan, partial transfer of exclusive rights to intellectual property objects, performance of works, provision of services by a resident of the Republic of Kazakhstan to a non-resident of the Republic of Kazakhstan, transfer of property for lease by a resident of the Republic of Kazakhstan to a non-resident of the Republic of Kazakhstan.

2. To classify the currency transactions, the following basic terms shall be used in this Law:

1) equity participation:

participation in the authorized capital, property of a legal entity, a simple partnership, a consortium, including in the form of shares, ownership interest, contributions and (or) votes of participants;

participation in the capital of a legal entity other than the authorized capital;

2) capital flow operations - the operations involving the transfer of ownership and other rights to currency values carried out between the residents of the Republic of Kazakhstan and non-residents of the Republic of Kazakhstan, providing for:

financial loans;

equity participation;

operations with securities, ownership interests and derivative financial instruments;

the acquisition of ownership right to real estate, except for movable things, equated with or attributed to the real estate by the laws of the Republic of Kazakhstan;

the acquisition of fully exclusive rights to intellectual property objects;

transfer of money and other property in fulfillment of the obligations of a participant in a joint activity, as well as in trust management, trust;

transfer of money and financial instruments to professional participants of the securities market, carrying out currency transactions at the instructions of customers, to the accounts for recording and keeping money belonging to the customers;

free transfer of money and other currency values;

3) financial loans:

loans, except for the obligations arising from the prepayment, deferment and installment payment of export or import;

money transferred in fulfillment of the debtor's obligations;

financing under the assignment of the monetary claim of suppliers and recipients (sellers and buyers) of goods (works, services);

financing by third parties of the acquisition of goods (works, services) and other transactions, as well as the fulfillment by third parties of the debtor's obligations to the creditor, resulting in the obligation of the person for whom the obligation was fulfilled, to

return the money and other property to the person who provided such financing and (or) such fulfillment;

financial leasing, rental of real estate with subsequent redemption, except for the rental of movable things, equated with or referred to the real estate by the laws of the Republic of Kazakhstan;

4) foreign financial organizations - foreign banks and other financial institutions, established in accordance with the legislation of foreign countries and engaged in business activities on provision of financial services under the laws of the countries where they are registered;

5) foreign non-financial organizations - legal entities and other organizations that do not form a legal entity, established in accordance with the legislation of foreign countries, located outside the Republic of Kazakhstan, except for foreign financial organizations.

For the purposes of this Law, foreign exchange transactions related to the import or export of goods and services shall be:

the operations made by a resident of the Republic of Kazakhstan on the acquisition and repayment of electronic money, issued by non-resident of the Republic of Kazakhstan;

the operations made by a non-resident of the Republic of Kazakhstan on the acquisition and repayment of electronic money, issued by residents of the Republic of Kazakhstan.

3. Residents of the Republic of Kazakhstan (hereinafter referred to as residents) for the purposes of this Law and other regulatory legal acts in the sphere of currency regulation and currency control shall be recognized:

the citizens of the Republic of Kazakhstan, except for the citizens of the Republic of Kazakhstan who permanently reside in a foreign state on the basis of the right granted in accordance with the legislation of this foreign state;

foreigners and stateless persons permanently residing in the Republic of Kazakhstan on the basis of a permit for permanent residence in the Republic of Kazakhstan;

legal entities (except for the international organizations) established in accordance with the legislation of the Republic of Kazakhstan, located in the Republic of Kazakhstan, as well as their branches (representative offices);

international organizations located in the Republic of Kazakhstan, if the international agreement on their establishment determines the status of a resident for them;

foreign institutions of the Republic of Kazakhstan;

Note RCLI!

Sub-paragraph 7 of paragraph 3 shall come into force from 16.12.2020 in accordance with the Law of the Republic of Kazakhstan dated 02.07.2018 No. 167-VI.

branches of foreign financial organizations that, in accordance with the laws of the Republic of Kazakhstan, are entitled to carry out banking and (or) insurance activities in the territory of the Republic of Kazakhstan;

branches (representative offices) of foreign non-financial organizations that are permanent institutions of such foreign non-financial organizations in the Republic of Kazakhstan in accordance with the Code of the Republic of Kazakhstan "On taxes and other mandatory payments to the budget" (Tax Code) (hereinafter referred to as the Tax Code), except for the branches (representative offices) of foreign non-financial organizations recognized as non-residents of the Republic of Kazakhstan in accordance with paragraph 4 of this article.

4. For the purposes of this Law and other regulatory legal acts in the sphere of currency regulation and currency control, the following shall be recognized as non-residents of the Republic of Kazakhstan (hereinafter - non-residents):

individuals who are not residents in accordance with paragraph 3 of this article;  
legal entities and organizations that do not form a legal entity, established in accordance with the legislation of foreign countries, located outside the Republic of Kazakhstan, as well as their branches (representative offices) in the Republic of Kazakhstan, carrying out activities that do not lead to the formation of a permanent institution of a non-resident in accordance with the Tax Code;

branches (representative offices) of foreign non-financial organizations for which the status of non-resident under the currency legislation of the Republic of Kazakhstan is established by the terms of agreements, concluded on behalf of the Republic of Kazakhstan with foreign organizations and entered into force before the enactment of this Law;

international organizations, unless otherwise specified by an international treaty on their establishment;

diplomatic and other official representative offices of foreign countries.

The list of branches (representative offices) of foreign non-financial organizations for which non-resident status under the currency legislation of the Republic of Kazakhstan is established by the terms of agreements concluded on behalf of the Republic of Kazakhstan with foreign organizations shall be established by an act of the Government of the Republic of Kazakhstan.

5. The concepts and terms used and not defined in this Law shall be applied in the meaning in which they are used in the laws of the Republic of Kazakhstan.

**Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

## **Article 2. The scope of this Law**

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

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

The norms of this Law and regulatory legal acts of the currency regulation body adopted in accordance with this Law, are applied within the limits stipulated by the conditions of the special regulation regime to the authorized organizations and other legal entities carrying out

activities within the framework of the special regulatory regime introduced in accordance with the Law of the Republic of Kazakhstan "On state regulation, control and supervision of the financial market and financial organizations".

**Footnote. Article 2 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

### **Article 3. Currency legislation of the Republic of Kazakhstan**

1. The currency legislation of the Republic of Kazakhstan shall be based on the Constitution of the Republic of Kazakhstan and consist of this Law, other laws of the Republic of Kazakhstan, decrees of the President of the Republic of Kazakhstan, as well as regulatory legal acts of currency regulation authorities and currency control bodies, issued in accordance with the competence, established by the legislation of the Republic of Kazakhstan

2. The norms of international treaties of the Republic of Kazakhstan shall directly apply to the relations, specified in Article 2 of this Law, except for the cases when it follows from an international treaty of the Republic of Kazakhstan that the application of such norms requires the adoption (enactment) of a regulatory legal act of the Republic of Kazakhstan.

If an international treaty, ratified by the Republic of Kazakhstan establishes other rules than those provided for by this Law, then the rules of the international treaty shall apply.

### **Article 4. Goals and objectives of currency regulation and currency control**

1. The goals of currency regulation shall be the promotion of state policy to achieve sustainable economic growth and development of international cooperation of the Republic of Kazakhstan, to promote the sustainability of the balance of payments, the stability of the domestic foreign exchange market and the economic security of the Republic of Kazakhstan.

The objectives of currency regulation shall be:

1) determination of the order of circulation of currency values in the Republic of Kazakhstan;

2) promotion of the further integration of the Republic of Kazakhstan into the world economy;

3) provision of an information base for currency transactions and international financial assets and liabilities of the Republic of Kazakhstan.

2. The goal of currency control shall be the compliance of the residents and non-residents with the currency legislation of the Republic of Kazakhstan when they conduct currency transactions.

The objectives of currency control shall be:

1) determination of compliance of conducted currency transactions with the currency legislation of the Republic of Kazakhstan;

2) verification of the validity of payments and (or) money transfers for currency transactions and the availability of documents necessary for their implementation;

3) verification of the completeness, timeliness and objectivity of accounting and reporting on currency transactions.

## **Chapter 2. CURRENCY REGULATION**

### **Article 5. Currency regulation authorities**

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

2. The Government of the Republic of Kazakhstan and state bodies shall carry out currency regulation within their competence.

3. The Government of the Republic of Kazakhstan and the National Bank of the Republic of Kazakhstan, in accordance with this Law, within their competence, shall issue regulatory legal acts that are binding for residents and non-residents.

Draft by-laws on currency regulation developed by the state bodies shall be subject to coordination with the National Bank of the Republic of Kazakhstan.

4. The National Bank of the Republic of Kazakhstan, as the main currency regulator, shall approve:

1) the rules for carrying out currency transactions in the Republic of Kazakhstan;

2) the rules for carrying out exchange operations with foreign currency in cash in the Republic of Kazakhstan;

3) the rules for the export-import currency control in the Republic of Kazakhstan;

4) the rules for monitoring currency transactions in the Republic of Kazakhstan;

5) the rules for submitting information by branches (representative offices) of foreign non-financial organizations, operating in the Republic of Kazakhstan;

6) the rules for monitoring sources of supply and demand in the domestic foreign exchange market of the Republic of Kazakhstan.

5. The National Bank of the Republic of Kazakhstan and the Finance Ministry of the Republic of Kazakhstan shall carry out all types of currency transactions with residents and non-residents without restrictions.

6. The forms of accounting and reporting on currency transactions, as well as the procedure and deadlines for their submission, shall be determined by the National Bank of the Republic of Kazakhstan in coordination with the authorized state bodies in accordance with their competence.

**Footnote. Article 5 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

### **Article 6. Currency transactions of residents and non-residents**

1. Currency transactions between residents on the territory of the Republic of Kazakhstan shall be prohibited, except for the cases of:

1) transactions, one of the parties to which are the National Bank of the Republic of Kazakhstan, the Finance Ministry of the Republic of Kazakhstan, as well as foreign institutions of the Republic of Kazakhstan;

2) transactions, one of the parties to which are residents, who are granted the right to conduct currency operations with residents by the laws of the Republic of Kazakhstan or by the acts of the President of the Republic of Kazakhstan adopted prior to the entry into force of this Law;

3) operations with currency values related to banking operations and other operations that may be performed by the authorized banks and authorized organizations in accordance with the license issued by the National Bank of the Republic of Kazakhstan, the authorized body for regulation, control and supervision of the financial market and financial organizations or the laws of the Republic of Kazakhstan;

4) payment of banking services for currency transactions;

5) transactions, related to the acquisition, sale, payment of interest and (or) repayment of securities, the nominal value of which is expressed in foreign currency;

6) transactions between commissioners and commitents when commissioners provide services related to the conclusion and execution of contracts with non-residents for export or import, including operations for the return of currency values to the commitent;

7) transactions for the purchase and (or) sale of refined gold bullion for the national currency;

8) the transfer of promissory notes denominated in foreign currency as the fulfillment of monetary obligations;

9) transactions related to the settlements in the sale of goods in duty-free shops, as well as in the sale of goods and provision of services to passengers en route during international transportation;

10) transactions between branches (representative offices) of foreign organizations;

11) transactions when paying expenses of an individual related to his business trip outside the Republic of Kazakhstan, including representation expenses, as well as operations when redeeming an unspent advance payment, issued in connection with a business trip outside the Republic of Kazakhstan;

12) gratuitous money transfers or gratuitous transfer of currency values by individuals to individuals, as well as to legal entities whose statutory activities are aimed at charity;

13) making bank deposits by individuals in favor of other individuals;

14) transactions between professional securities market participants, engaged in currency transactions at the instruction of clients and individuals or legal entities, related to the transfer of money and financial instruments from accounts (to accounts) for accounting and storage of money and financial instruments owned by clients, within the execution and termination of brokerage services contracts;

15) transactions, related to the payment of taxes and other obligatory payments to the budget in the cases provided for by the Tax Code;

16) transactions of the beneficiary of minerals on behalf of the state, which, in accordance with the Tax Code, are transferred to it for the fulfillment by the subsoil user of a tax obligation in kind related to the transportation, storage and sale of such minerals;

17) payments of individuals for goods, works and services for transactions, concluded and executed when they are made on the territory of a special economic zone, the limits of which fully or partially coincide with the sections of the customs border of the Eurasian Economic Union.

2. Currency transactions between residents and non-residents shall be carried out in the national and (or) foreign currency.

3. Non-residents shall have the right to freely receive and transfer money on any currency transactions with their branches (representative offices) located in the Republic of Kazakhstan in accordance with the currency legislation of the Republic of Kazakhstan.

4. Non-residents shall have the right to freely receive and transfer dividends, interest and other income received on deposits (deposits), securities, loan and other currency transactions with residents, in accordance with the currency legislation of the Republic of Kazakhstan.

5. Currency transactions between non-residents in the territory of the Republic of Kazakhstan shall be carried out without restrictions in accordance with the currency legislation of the Republic of Kazakhstan.

6. The conditions and procedure for currency transactions, related to the provision of financial and professional services on the territory of the International Financial Center "Astana" shall be determined by the acts of the International Financial Center "Astana" in coordination with the National Bank of the Republic of Kazakhstan.

7. Currency transactions between residents and non-residents, for which this Law does not establish requirements for their implementation, shall be carried out without restrictions in accordance with the currency legislation of the Republic of Kazakhstan.

8. Import of currency values into the Republic of Kazakhstan and export from the Republic of Kazakhstan shall be carried out by residents and non-residents without restrictions, subject to the requirements of the customs legislation of the Eurasian Economic Union and (or) the Republic of Kazakhstan.

**Footnote. Article 6 as amended by the Law of the Republic of Kazakhstan dated 03.04.2019 No. 243-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

## **Article 7. Payments and (or) money transfers for currency transactions of residents and non-residents**

1. Payments and (or) money transfers on currency transactions of residents and non-residents shall be made through bank accounts in the authorized banks in the manner, established by the currency legislation of the Republic of Kazakhstan.

It shall be allowed to make the following operations without opening and (or) using bank accounts in the authorized banks:

- 1) payments and (or) money transfers of individuals, as well as payments and (or) money transfers in their favor in national currency in the territory of the Republic of Kazakhstan;
- 2) money transfers of individuals in the cases, provided for by paragraph 4 of this article;
- 3) payments for the sale of goods in duty-free shops, as well as for the sale of goods and provision of services to passengers en route during international transportations;
- 4) transactions of individuals with cash in national and foreign currencies, carried out with the authorized banks, as well as at exchange offices of the authorized organizations;
- 5) payments of salaries to employees by legal entities and branches (representative offices) of foreign organizations;
- 6) transactions when paying expenses of an individual related to his business trip outside the Republic of Kazakhstan, including representation expenses, as well as transactions when redeeming an unspent advance payment, issued in connection with a business trip outside the Republic of Kazakhstan;
- 7) payments between individuals and non-resident legal entities, operating under customs control at airports, ports and border crossings open to international traffic;
- 8) payments between non-residents and residents for servicing vessels of foreign countries at airports and seaports in the Republic of Kazakhstan, as well as for non-residents to pay for air navigation services, airport operations and seaports services for servicing international flights;
- 9) payments between residents and non-residents, operating in the territory of the Republic of Kazakhstan in national currency within the amount, established by the legislation of the Republic of Kazakhstan on payments and payment systems;
- 10) payments through the issuance (transfer) of a check, bill of exchange;
- 11) operations for the purchase and (or) sale of foreign currency in cash between the authorized banks and authorized organizations for the purpose of carrying out exchange operations with foreign currency in cash;
- 12) payments of individuals for goods, works and services on transactions, concluded and executed when they are performed on the territory of a special economic zone, the limits of which fully or partially coincide with the sections of the customs border of the Eurasian Economic Union;
- 13) payments and (or) money transfers for currency operations, carried out outside the Republic of Kazakhstan by resident individuals, foreign institutions of the Republic of Kazakhstan;
- 14) payments and (or) money transfers for transactions with non-residents, made through accounts in foreign banks, opened by residents in cases and in the manner, established by this Law, as well as payments and (or) money transfers through correspondent accounts of the authorized banks in foreign banks;

15) money transfers from the accounts of non-residents in foreign banks, carried out by them to meet the obligations of the resident, in the cases, provided for by the rules for currency transactions in the Republic of Kazakhstan.

2. Cash foreign currency, received by legal entities and branches (representative offices) of foreign organizations when conducting currency transactions in the territory of the Republic of Kazakhstan (except for the territory of a special economic zone whose limits fully or partially coincide with sections of the customs border of the Eurasian Economic Union), must be credited to the bank accounts at the authorized banks.

The procedure for transactions made by residents and non-residents in bank account at an authorized bank, related to the withdrawal, crediting and use of cash foreign currency shall be determined by the rules for currency transactions in the Republic of Kazakhstan.

3. Payments and (or) money transfers for capital flow operations, as well as payments and (or) money transfers under foreign exchange contracts for which, in accordance with this Law , it is necessary to get an account number, shall be made only through bank accounts.

4. Individuals shall be entitled, without opening and (or) using an account in an authorized bank within the amount, established by the National Bank of the Republic of Kazakhstan, to make the following money transfers for currency transactions:

1) gratuitous money transfers in the territory of the Republic of Kazakhstan, from the Republic of Kazakhstan and to the Republic of Kazakhstan;

2) money transfers on the territory of the Republic of Kazakhstan, from the Republic of Kazakhstan and to the Republic of Kazakhstan in payment of fines, taxes and other obligatory payments in profit of the state;

3) other money transfers from the Republic of Kazakhstan and to the Republic of Kazakhstan that are not related to the entrepreneurial activity of an individual and transactions under foreign exchange contracts for which an account number is required in accordance with this Law.

The procedure for individuals to transfer money without opening and (or) using a bank account in the authorized bank, including a threshold value for the transfer amount without opening and (or) using a bank account, shall be determined by the rules for currency transactions in the Republic of Kazakhstan.

**Footnote. Article 7 as amended by the Law of the Republic of Kazakhstan dated 03.04.2019 No. 243-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

#### **Article 8. Accounts of residents and non-residents**

1. Residents shall open accounts in foreign banks without restrictions subject to the provisions of Article 16 of this Law.

2. Residents and non-residents in the territory of the Republic of Kazakhstan shall open bank accounts in the authorized banks in national and (or) foreign currency without restrictions.

3. Non-residents shall be entitled to freely transfer national and (or) foreign currency from their accounts outside the territory of the Republic of Kazakhstan to their bank accounts at the authorized banks, as well as from their bank accounts at the authorized banks to their accounts outside the territory of the Republic of Kazakhstan.

#### **Article 9. Requirement of repatriation of national and (or) foreign currency for export or import**

1. Repatriation of national and (or) foreign currency for export or import shall be the crediting to the bank accounts at the authorized banks:

1) of the revenues from exports in national and (or) foreign currency;

2) of the national and (or) foreign currency transferred by the resident in favor of a non-resident to make payments on imports, in cases of non-execution or incomplete execution of obligations by non-resident.

2. A resident (except for a branch (representative office) of a foreign organization) shall be obliged to ensure the repatriation of national and (or) foreign currency within the time limits, stipulated in the foreign exchange contract on export or import.

The period for which a resident (except for a branch (representative office) of a foreign organization) fulfills the repatriation requirement, (hereinafter referred to as the repatriation period) shall be determined on the basis of the conditions of fulfillment of obligations by the parties to a foreign exchange contract on export or import in the manner, specified by the export-import currency control regulations in Republic of Kazakhstan.

The terms of the foreign exchange contract on export or import, which is subject to the requirement of repatriation, should provide for the terms of fulfillment of obligations by non-residents. The authorized banks, servicing foreign exchange contracts on export or import, shall be entitled to require the resident to specify the repatriation period.

The national and (or) foreign currency subject to repatriation and credited to the accounts in foreign banks must be transferred to the accounts of the resident (except for a branch (representative office) of a foreign organization) in the authorized banks before the repatriation period expires.

3. The requirement of repatriation shall be considered partially or fully fulfilled in the following cases:

1) crediting the national and (or) foreign currency to the accounts of a resident in foreign banks, intended to secure the obligations of a resident in accordance with the conditions of a financial loan attracted from a non-resident or to support the activities of branches (representative offices) of a resident, opened abroad;

2) use of foreign currency, received by residents from holding exhibitions, sports, cultural and other similar events outside the Republic of Kazakhstan to cover the expenses during the period of their holding;

3) crediting of currency revenues to the accounts in foreign banks of transport organizations-residents in order to pay expenses, associated with the payment of port and

other fees in the territories of foreign countries and maintenance of vehicles of such transport organizations and their passengers outside the Republic of Kazakhstan, as well as expenses for ensuring the activities of branches (representative offices) of such transport organizations, located outside the territory of the Republic of Kazakhstan;

4) termination of a non-resident's obligation by offsetting a counterclaim on foreign exchange contracts for export or import;

5) termination of a non-resident's obligation by replacing the original obligation that existed between the resident and non-resident, by another obligation between the same persons, providing for another object or method of performance;

6) receipt of insurance payment upon the occurrence of an insured event under insurance contracts for the risk of non-performance of obligations by a non-resident.

4. In the event that a resident assigns the right of claim to another resident against a non-resident, the corresponding obligation to ensure repatriation on export or import shall, in a specified period, pass to the resident who has accepted the right to claim.

Under foreign exchange contracts on export or import, which are subject to the repatriation requirement, a gratuitous assignment by a resident to a non-resident of his right of claim to another non-resident shall not be allowed.

5. The National Bank of the Republic of Kazakhstan, together with other bodies and currency control agents, shall monitor the movement of money and fulfilment of obligations under separate foreign exchange contracts for export or import in order to control the fulfillment of the repatriation requirement by residents (except for branches (representative offices) of foreign organizations).

For the purposes of this monitoring, an authorized bank servicing a foreign exchange contract on export or import shall assign an account number to it, which is subsequently indicated when submitting reports on a foreign exchange contract on export or import to currency control authorities.

6. The procedure for obtaining the account numbers for foreign exchange contracts on export or import, monitoring the movement of money and fulfillment of obligations under such contracts, including the forms and deadlines for the submission of reports and deadlines for submission of documents, confirming the occurrence, execution and termination of obligations and (or) circumstance that affect the terms and (or) conditions of repatriation of the national and (or) foreign currency, as well as the conditions and criteria, including the threshold value of the amount of the foreign exchange contract on export or import, in the presence of which the foreign exchange contracts on export or import should be controlled to meet the requirement of repatriation, and the exclusions from repatriation requirements shall be determined by the rules of export-import currency control in the Republic of Kazakhstan.

## **Chapter 3. DOMESTIC FOREIGN EXCHANGE MARKET**

## **Article 10. Purchase and (or) sale of foreign currency**

1. The domestic foreign exchange market of the Republic of Kazakhstan shall be defined as a combination of relations of residents and non-residents, associated with the purchase and (or) sale of foreign currency, carried out in the territory of the Republic of Kazakhstan in accordance with this Law.

2. The authorized banks entitled to carry out exchange operations with foreign currency in accordance with the license issued by the authorized body for regulation, control and supervision of the financial market and financial organizations or the laws of the Republic of Kazakhstan, have the right to sell and (or) buy foreign currency in the Republic of Kazakhstan and abroad.

3. Legal entities and branches (representative offices) of foreign organizations (except for authorized banks) shall carry out non-cash purchase and (or) sale of foreign currency in the Republic of Kazakhstan through bank accounts in the authorized banks in the manner, determined by the rules for currency transactions in the Republic of Kazakhstan.

The authorized organizations shall have the right to carry out transactions with the authorized banks for the purchase and (or) sale of cash foreign currency for their activities on the basis of contracts concluded with them.

4. Purchase and (or) sale of cash foreign currency for another cash foreign or cash national currency by individuals in the Republic of Kazakhstan shall be made exclusively through exchange offices.

5. The National Bank of the Republic of Kazakhstan shall monitor the sources of supply and demand in the domestic foreign exchange market of the Republic of Kazakhstan and the purposes of using the acquired foreign currency.

The authorized banks shall submit to the National Bank of the Republic of Kazakhstan the information on sources of supply and demand in the domestic foreign exchange market of the Republic of Kazakhstan and the purposes of using the acquired foreign currency.

The procedure for the authorized banks to provide information on the sources of supply and demand in the domestic foreign exchange market of the Republic of Kazakhstan and the purposes of using acquired foreign currency, including the forms and deadlines for submitting reports, shall be determined by the rules for monitoring the sources of supply and demand in the domestic foreign exchange market of the Republic of Kazakhstan.

6. The National Bank of the Republic of Kazakhstan shall establish requirements for resident legal entities (except for the authorized banks) for confirming the purposes of purchasing foreign currency for the national currency in the domestic foreign exchange market of the Republic of Kazakhstan and its use for the stated purposes.

7. The order of purchase and (or) sale of non-cash foreign currency in the domestic foreign exchange market of the Republic of Kazakhstan, requirements for resident legal entities (except for the authorized banks) for confirming the purposes of purchasing foreign currency for the national currency in the domestic foreign exchange market of the Republic of

Kazakhstan, as well as the threshold value for the purchase amount, in the case of excess of which these requirements are applied, shall be determined by the rules for currency transactions in the Republic of Kazakhstan.

**Footnote. Article 10 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

## **Article 11. Organization of exchange operations with cash foreign currency**

1. Exchange operations with foreign currency in cash in the Republic of Kazakhstan, including the purchase and (or) sale of foreign currency in cash for another foreign currency in cash or national currency in cash, are carried out by the authorized organizations or authorized banks entitled to carry out exchange operations with foreign currency in cash in accordance with the license issued by the National Bank of the Republic of Kazakhstan, an authorized body for regulation, control and supervision of the financial market and financial organizations or the laws of the Republic of Kazakhstan. Other persons are not entitled to provide financial services in the Republic of Kazakhstan for the purchase and (or) sale of foreign currency in cash.

2. The procedure for the purchase and (or) sale of foreign currency in cash in exchange offices, the establishment of purchase and (or) sale rates of cash foreign currency for another foreign or national currency in cash is determined by the rules for the exchange operations with foreign currency in cash in the Republic of Kazakhstan.

3. The National Bank of the Republic of Kazakhstan shall have the right to set limits on the deviation of cash foreign currency rates for cash national currency on transactions conducted through exchange offices. The types of foreign currencies and the corresponding limits of exchange rate deviations shall be established by the National Bank of the Republic of Kazakhstan.

**Footnote. Article 11 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

## **Article 12. Requirements for activities related to exchange operations with foreign currency in cash**

**Footnote. The title of article 12 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

1. An authorized bank entitled to carry out exchange operations with foreign currency in accordance with the license issued to it by the authorized body for regulation, control and supervision of the financial market and financial organizations or the laws of the Republic of Kazakhstan, notifies the National Bank of the Republic of Kazakhstan on the start or termination of the activities of the exchange offices.

Notification of the commencement of the activities of an exchange office shall be made by an authorized bank not later than the date of commencement of operations by the exchange

office. The National Bank of the Republic of Kazakhstan within three working days from the date of the notification shall confirm its receipt to the authorized bank.

2. The authorized organization operates on the basis of a license issued by the National Bank of the Republic of Kazakhstan for exchange operations with foreign currency in cash and an annex to it, which is issued for each exchange office of the authorized organization.

The authorized organization shall have the right to carry out, through its exchange offices, transactions for the purchase and (or) sale of refined gold bullions, issued by the National Bank of the Republic of Kazakhstan.

Participation of an authorized organization in the authorized capital of other legal entities shall not be allowed.

3. Qualification requirements are imposed for the authorized organizations, which include requirements for founders (participants), including disclosure of the sources of origin of their contributions to the authorized capital of the authorized organization, requirements for the organizational and legal form, amount and procedure for forming the authorized capital, as well as premises, equipment of exchange offices and the staff.

4. The presence of premises in an authorized organization for placing an exchange office is mandatory for obtaining a license from the National Bank of the Republic of Kazakhstan for exchange operations with foreign currency in cash and (or) annex to it.

To obtain a license and (or) annex thereto, in addition to the documents, defined by the Law of the Republic of Kazakhstan "On permits and notifications", the authorized organizations shall submit to the National Bank of the Republic of Kazakhstan a certificate from an authorized bank on the availability of an account in foreign currency.

Documents are submitted on the terms and in the manner determined by the rules for carrying out exchange operations with foreign currency in cash in the Republic of Kazakhstan

5. Issuance of a license (including annex to it) for exchange operations with foreign currency in cash or refusal to issue a license (including an annex to it) is carried out within twenty working days from the date of submission by the authorized organization of all documents and information provided for by this Law and the Law of the Republic of Kazakhstan "On permits and notifications".

The issuance of an annex to a valid license, re-issuance of a license and (or) annex thereto, or refusal to issue such documents shall be carried out within ten working days from the date when the authorized organization submits all documents and information, specified by this Law and the Law of the Republic of Kazakhstan "On permits and notifications".

In case of refusal to issue, reissue a license and (or) an annex thereto, the applicant shall be provided with a reasoned response.

6. The grounds for refusal to issue, reissue a license and (or) the annex thereto shall be:

1) the failure to submit documents and (or) information, specified by this Law and the Law of the Republic of Kazakhstan "On permits and notifications";

2) non-compliance of the applicant and (or) the submitted documents and (or) information with the requirements, established by this Law and the Law of the Republic of Kazakhstan "On permits and notifications".

7. The procedure for licensing of the authorized organizations, including qualification requirements for them, notifications by an authorized bank about the beginning or termination of the activities of exchange offices, requirements for the exchange operations with foreign currency in cash, the conditions for the functioning of exchange offices and the procedure for transactions for purchase and (or) sale of refined gold in bars issued by the National Bank of the Republic of Kazakhstan, as well as the forms and terms for submitting reports by the authorized banks and authorized organizations are determined by the rules for the exchange operations with foreign currency in cash in the Republic of Kazakhstan.

**Footnote. Article 12 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

## **Chapter 4. MONITORING OF CURRENCY TRANSACTIONS. SUBMISSION OF INFORMATION ON CURRENCY TRANSACTIONS AND ACCOUNTS IN FOREIGN BANKS**

### **Article 13. Monitoring of currency transactions**

1. Currency transactions shall be monitored by the National Bank of the Republic of Kazakhstan by obtaining information on currency transactions from residents - participants of currency transactions and the authorized banks that make payments and (or) money transfers on currency transactions, as well as accounts in foreign banks.

To monitor currency transactions, the National Bank of the Republic of Kazakhstan shall:

1) carry out the accounting registration of foreign exchange contracts, on the basis of and (or) pursuant to which the capital flow operations are carried out (hereinafter - foreign exchange contracts on capital flow) and receive information about currency transactions, conducted on them and related requirements to non-residents and liabilities to non-residents;

2) receive notifications about the conducted currency transactions, including information on payments made and (or) money transfers on currency transactions;

3) receive notifications about accounts in foreign banks opened by residents (except for the banks and branches (representative offices) of foreign organizations), and make accounting registration of such accounts;

4) on a regular basis, receive information from branches (representative offices) of foreign non-financial organizations, operating in the Republic of Kazakhstan.

2. In order to organize and monitor currency transactions, the National Bank of the Republic of Kazakhstan or the authorized banks, in the cases established by this Law, shall assign account numbers to foreign exchange contracts, on the basis of and (or) pursuant to which the currency transactions are carried out, as well as the accounts of residents (except

for banks and branches (representative offices) of foreign organizations in foreign banks. The National Bank of the Republic of Kazakhstan shall assign account numbers to foreign exchange contracts on capital flow, accounts of residents (except for the banks and branches (representative offices) of foreign organizations) in foreign banks, and foreign exchange contracts on export or import, which are settled through such accounts. The authorized banks shall assign account numbers to foreign exchange contracts on export or import, which are settled through accounts in the authorized banks.

If a foreign exchange contract on capital flow also provides for export or import, and it is settled through bank accounts in the authorized banks, the resident (except for the authorized bank and a branch (representative office) of a foreign organization) shall apply for assigning an account number to such a foreign exchange contract with an authorized bank.

3. When assigning an account number to a foreign exchange contract, the National Bank of the Republic of Kazakhstan or an authorized bank shall have the right to request the following information and (or) documents from a resident-party to a foreign exchange contract in addition to the submitted copy of a foreign exchange contract:

- 1) information on participants in a foreign exchange contract, including identification data, country of registration, information on the participation of a party to a foreign exchange contract in the capital of the other party to a foreign exchange contract;
- 2) information about the transaction, including the details and the amount of the foreign exchange contract, currency of the foreign exchange contract and settlements on it, the date of completion of fulfillment of the obligations under the foreign exchange contract;
- 3) information about the accounts through which the transaction will be settled;
- 4) changes and (or) additions to the foreign exchange contract made by its participants, and other documents of the participants of the foreign exchange contract that are associated with the transaction.

#### **Article 14. Accounting registration of a foreign exchange contract on capital flow**

1. Accounting registration of a foreign exchange contract on capital flow shall provide for assignment of an account number to this contract and subsequent submission by the resident-party to a foreign exchange contract on capital flow to the National Bank of the Republic of Kazakhstan of information and reports on it using the account number.

Accounting registration requirements shall apply to foreign exchange contracts on capital flow, the parties to which are the residents (except for the authorized banks and branches (representative offices) of foreign organizations).

2. A resident (except for an authorized bank and a branch (representative office) of a foreign organization) who is a party to a foreign exchange contract on capital flow shall apply to the National Bank of the Republic of Kazakhstan for assigning an account number to a foreign exchange contract on capital flow prior to commencement of fulfillment of the obligations under such foreign exchange contract by any of its parties.

If fulfillment of obligations by a resident under a foreign exchange contract on capital flow is preceded by the transfer of property (money receipt) from a non-resident in favor of a resident, then the application for assigning an account number to a foreign exchange contract on capital flow shall be made before the transfer of property (money receipt) to a resident and (or) crediting the incoming money to the resident's bank accounts in the authorized banks.

If, as a result of changes and (or) additions made, the foreign exchange contract on capital flow meets the criteria and conditions for accounting registration, then the account number shall be assigned to the foreign exchange contract on capital flow before the parties begin to fulfill their obligations under the foreign exchange contract on capital flow with amendments and (or) additions made (before the transfer of property (receipt of money) at the disposal of the resident, if after making changes and (or) additions to the foreign exchange contract on capital flow the fulfillment of the obligation was started by a non-resident).

Under the foreign exchange contracts on capital flows, subject to accounting registration, payments and (or) money transfers through bank accounts in the authorized banks shall be carried out only if there is an account number.

3. For the accounting registration of a foreign exchange contract on capital flow, a resident (except for an authorized bank and a branch (representative office) of a foreign organization) shall submit the following to the National Bank of the Republic of Kazakhstan:

- 1) a statement indicating the identification number of the resident, for individuals - with a copy of an identity document attached;
- 2) copies of a foreign exchange contract on capital flow and changes and (or) additions thereto, relating to obligations under a foreign exchange contract on capital flow.

The National Bank of the Republic of Kazakhstan shall have the right to request for review the originals of these documents, as well as other documents and (or) information, relating to the capital flow and (or) to which there are references in the submitted documents.

Documents, drawn up in a foreign language, shall be submitted to the National Bank of the Republic of Kazakhstan with translation into the Kazakh or Russian languages.

The assignment of an account number to a foreign exchange contract on capital flow shall be carried out within five working days from the date the resident submits all documents and information, specified by this paragraph.

4. Accounting registration requirements shall not apply to foreign exchange contracts on capital flow, the parties to which are the National Bank of the Republic of Kazakhstan and the Finance Ministry of the Republic of Kazakhstan.

5. The procedure for obtaining by residents (except for the authorized banks and branches (representative offices) of foreign organizations) of account numbers for foreign exchange contracts on capital flows and the deadlines for submitting documents, confirming the emergence, execution and termination of obligations, the procedure for monitoring the money flow and other fulfillment of obligations of foreign exchange contracts on capital flow, including the forms and deadlines for submission of reports by the authorized banks and

residents that are parties to such contracts, conditions criteria, including a threshold amount of a foreign exchange contract on capital flow, under which such contracts are subject to registration and exclusion from the accounting registration procedure, shall be determined by the rules for currency transactions in the Republic of Kazakhstan.

6. The requirements of this article shall not apply to currency transactions, conducted by participants of the International Financial Center "Astana" in its territory.

#### **Article 15. Notification about the conducted currency transactions**

1. Notification of currency transactions conducted, including at the instruction of clients, shall be made by the authorized banks in the form of reports, submitted to the National Bank of the Republic of Kazakhstan.

2. The authorized banks shall notify about the conducted currency transactions, the amount of which is equal to or exceeded the threshold value, on the basis of information received during the payments and (or) money transfers.

The client, being a resident or a non-resident, for making a payment and (or) money transfer on a currency transaction in an amount equal to or exceeding the threshold value, shall provide the authorized bank with the following information:

1) the country of registration of the sender and the beneficiary under the payment document, if these data do not coincide with those specified in the payment document;

2) a sign of intra-corporate money transfer (for transactions, carried out by a legal entity with its structural divisions or between the structural divisions of one legal entity);

3) a currency transaction code for which a payment and (or) money transfer is made.

If the client is a resident, then the following information on the foreign exchange contract shall be additionally submitted, on the basis of and (or) pursuant to which the payment and (or) money transfer on the currency transaction is made:

1) information about the sender of money and the recipient of money under a foreign exchange contract - in the event of a discrepancy with the sender and beneficiary under the payment document;

2) the country of registration of the sender of money and the recipient of money under a foreign exchange contract - in the event of a discrepancy with the sender and beneficiary under the payment document;

3) details of the foreign exchange contract and the account number of the foreign exchange contract (if any).

The information on payment and (or) money transfer on a currency transaction, specified in this paragraph, shall be submitted to the authorized bank by the client or specified by the authorized bank independently based on the documents submitted by the client and (or) information. The authorized bank as a currency control agent shall ensure the correctness of the indication of the currency transaction code and other information, provided for in this paragraph.

The threshold value in relation to the amount of payment and (or) money transfer for a currency transaction to be notified, currency transaction codes and the procedure for submitting information, specified in this paragraph, shall be determined by the rules for currency transactions in the Republic of Kazakhstan.

3. The procedure for notification about the conducted currency transactions by the authorized banks, including the forms and deadlines for submission of reports, shall be determined by the rules for monitoring of currency transactions in the Republic of Kazakhstan.

The requirements for the list of information and the procedure for their submission by the authorized banks, engaged in currency transactions at the instruction of the participants of the International Financial Center "Astana" shall be determined by the acts of the International Financial Center "Astana" in consultation with the National Bank of the Republic of Kazakhstan.

4. The National Bank of the Republic of Kazakhstan, in order to clarify the circumstances of currency transactions, shall have the right to request a copy of foreign exchange contract from the currency control agents or the sender-resident or the resident-beneficiary on the payment and (or) money transfer, included in the notification, on the basis of and (or) pursuant to which such a payment and (or) money transfer was made, as well as other information on such a foreign exchange contract.

5. The requirements of this article shall not apply to currency transactions, conducted by participants of the International Financial Center "Astana" on its territory.

#### **Article 16. Notification about accounts in foreign banks**

1. A resident legal entity (except for a bank and a branch (representative office) of a foreign organization) shall notify the National Bank of the Republic of Kazakhstan about the opening of an account in a foreign bank by requesting the assignment of an account number to such an account before making transactions using such an account.

A resident legal entity (except for a bank and a branch (representative office) of a foreign organization) shall submit to the National Bank of the Republic of Kazakhstan the information on transactions using an account opened in a foreign bank, indicating the account number.

To assign an account number to an account in a foreign bank, a resident legal entity (except for a bank and a branch (representative office) of a foreign organization) shall submit an application indicating the business identification number and a copy of the foreign bank document with the specified account details.

In the event of a change in bank details or the closure of an account in a foreign bank to which an account number has been assigned, the resident legal entity (except for a bank and a branch (representative office) of a foreign organization) shall notify the National Bank of the Republic of Kazakhstan thereof in a timely manner.

2. Resident individuals shall not notify the National Bank of the Republic of Kazakhstan of the accounts in foreign banks. The authorized bank that carries out such money transfers shall notify about the transfer of money of individuals from their own accounts (to their own accounts) in foreign banks.

3. The procedure for obtaining by resident legal entities (except for the banks and branches (representative offices) of foreign organizations) of account numbers for accounts in foreign banks, notifying by them about the changes in details or closing an account in a foreign bank, including forms and deadlines for submitting reports on money flow in such accounts, the procedure for submission of reports by the authorized banks on the transfer of money of individuals shall be determined by the rules for monitoring the currency transactions in the Republic of Kazakhstan.

4. The requirements of this article shall not apply to participants of the International Financial Center "Astana".

#### **Article 17. Submission of information to monitor currency transactions**

1. Branches (representative offices) of foreign non-financial organizations operating in the Republic of Kazakhstan for more than one year shall submit information to the National Bank of the Republic of Kazakhstan on transactions with residents and non-residents in the form of reports, including at the request of the National Bank of the Republic of Kazakhstan.

The procedure for branches (representative offices) of foreign non-financial organizations to submit information, including the forms and deadlines for submitting reports, as well as the types of activities for which the branches (representative offices) of foreign non-financial organizations require submission of reports, shall be determined by the rules for providing information by branches (representative offices) of foreign non-financial organizations, operating in the Republic of Kazakhstan.

2. The acts of the International Financial Center "Astana", in coordination with the National Bank of the Republic of Kazakhstan, shall establish requirements for participants of the International Financial Center "Astana" to report on currency transactions conducted, as well as the procedure for informational interaction between the bodies of the International Financial Center "Astana" and the National Bank Republic of Kazakhstan.

### **Chapter 5. CURRENCY CONTROL**

#### **Article 18. Bodies, agents and subjects of currency control**

1. Currency control in the Republic of Kazakhstan shall be carried out by the Government of the Republic of Kazakhstan, the National Bank of the Republic of Kazakhstan, other bodies and agents of currency control in accordance with this Law and the laws of the Republic of Kazakhstan.

2. The currency control bodies in the Republic of Kazakhstan shall be the National Bank of the Republic of Kazakhstan and other state bodies in accordance with the competence, established by the legislation of the Republic of Kazakhstan.

The currency control agents shall be the authorized banks, the authorized organizations, as well as professional participants of the securities market, carrying out currency transactions at the instructions of clients.

3. Currency control in the Republic of Kazakhstan shall be carried out in respect of residents, including financial organizations engaged in currency transactions, as well as non-residents carrying out currency transactions in the territory of the Republic of Kazakhstan (hereinafter - the subjects of currency control).

Currency control in relation to financial organizations shall be carried out by the National Bank of the Republic of Kazakhstan. Currency control in relation to other persons shall be carried out by the National Bank of the Republic of Kazakhstan together with other currency control bodies within the limits of their competence.

4. The National Bank of the Republic of Kazakhstan shall interact with other currency control bodies, and also coordinate the information interaction of currency control agents with other currency control bodies.

#### **Article 19. Powers of bodies and agents of currency control**

1. The bodies and agents of currency control, within their competence, shall exercise control over currency transactions, conducted by residents and non-residents in the Republic of Kazakhstan, in terms of the compliance of these transactions with the currency legislation of the Republic of Kazakhstan.

2. Currency control bodies shall have the right to determine the procedure for reporting on currency transactions, to request documents and (or) information that are related to the conduct of currency transactions, to make demands on the elimination of the violations found and to take other measures, stipulated by the legislation of the Republic of Kazakhstan that are binding to all residents and non-residents in the Republic of Kazakhstan.

3. Currency control agents shall be obliged:

1) to monitor compliance with the requirements of the currency legislation of the Republic of Kazakhstan when conducting transactions, including those at the instructions of clients;

2) to ensure the completeness and objectivity of accounting and reporting on currency transactions;

3) to report on the 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, as well as other currency control bodies and law enforcement agencies of the Republic of Kazakhstan in accordance with their powers, established by the laws of the Republic of Kazakhstan;

4) to submit information on currency transactions, conducted with their participation to the currency control bodies in the manner, established by the currency legislation of the Republic of Kazakhstan.

4. Bodies and agents of currency control are obliged to keep, in accordance with the legislation of the Republic of Kazakhstan, the commercial, banking and other secrets protected by law, which became known to them in the exercise of their powers, including when exchanging information in electronic form in accordance with the currency legislation of the Republic of Kazakhstan, with the exception of its submission in accordance with the laws of the Republic of Kazakhstan to the authorized body for regulation, control and supervision of the financial market and financial organizations.

5. The authorized bank shall make payments and (or) money transfers on the currency transactions of the resident and (or) non-resident only under the condition that the latter submits the documents and (or) information, required in accordance with the currency legislation of the Republic of Kazakhstan.

6. In order to ensure compliance with the requirements of the currency legislation of the Republic of Kazakhstan, currency control agents in accordance with this Law shall have the right to require from residents and non-residents, when they conduct currency transactions, the following:

- 1) for individuals - an identity document;
- 2) for foreigners and stateless persons - a document, confirming the right of permanent residence in the Republic of Kazakhstan (if available);
- 3) for legal entities and organizations that are not a legal entity - constituent and other documents, including those identifying the participants of this entity;
- 4) foreign exchange contract or its copy, including with a note on assignment of an account number in the cases, established by this Law;
- 5) license in the cases, established by this Law;
- 6) documents and (or) information confirming the fulfillment or on the basis of which the fulfillment of obligations under foreign exchange contracts is required;
- 7) information on payments and (or) money transfers on currency transactions in accordance with Article 15 of this Law.

The authorized bank shall have the right to request for review the originals of foreign exchange contracts and other documents, required by this paragraph, as well as the translation into Kazakh or Russian of documents, drawn up in a foreign language.

7. Currency control agents shall not be entitled to require the submission of documents not related to the ongoing currency transaction.

8. The authorized banks shall refuse to make a payment and (or) transfer money on a currency transaction in cases of a person's failure to submit documents, required by the currency legislation of the Republic of Kazakhstan, submission of false documents or failure to carry out actions, established by the currency legislation of the Republic of Kazakhstan.

**Footnote. Article 19 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

## **Article 20. Forms of currency control**

1. Currency control bodies shall exercise currency control in respect of subjects of currency control in the form of inspections and other forms of control in accordance with the laws of the Republic of Kazakhstan.

2. In relation to financial organizations, the inspections shall be carried out on the basis of risk assessment, unscheduled inspections of the currency control body and other forms of control. In respect of other residents, engaged in currency transactions, as well as non-residents, engaged in foreign exchange operations in the territory of the Republic of Kazakhstan, currency control procedures shall be carried out when they make payments and (or) money transfers on currency transactions, unscheduled inspections of the currency control body and other forms of control.

3. Other forms of control shall be carried out by currency control bodies through:

1) inspection of the premises and equipment of the exchange office of the authorized organization for compliance with the qualification requirements;

2) submission of a binding order to the currency control agent for the proper implementation of currency control;

3) analysis of information, reporting and documents, related to the conduct of a currency transaction, requested by the currency control body in connection with the receipt of information from the currency control agent about the possible violation by the client of the requirements of the currency legislation of the Republic of Kazakhstan, and other information (reporting), submitted in accordance with the requirements of the currency legislation of the Republic of Kazakhstan.

4. Procedures for another form of control shall include:

1) visiting and inspecting the premises, inspecting the equipment intended for the exchange office of the authorized organization, for compliance with the qualification requirements for them within the framework of permitting control prior to the issuance of a license by the National Bank of the Republic of Kazakhstan for exchange operations with foreign currency in cash and (or) annex to it. The visit and inspection are carried out on the basis of an application received from a legal entity for obtaining a license from the National Bank of the Republic of Kazakhstan for exchange operations with foreign currency in cash and (or) annex to it. The results of the inspection are taken into account when making a decision to issue or refuse to issue a license of the National Bank of the Republic of Kazakhstan to a legal entity for exchange operations with foreign currency in cash and (or) annex to it;

2) submission of an order to the currency control agent in the form of a written request, which indicates the essence of the order and the terms of its execution. The currency control

agent shall execute a written order of the currency control body by submitting the requested information and (or) documents in the form and time specified in such order;

3) implementation by the currency control body of the analysis of information, reporting, documents submitted in accordance with the currency legislation of the Republic of Kazakhstan or at the request of the currency control body for compliance with the requirements of the currency legislation of the Republic of Kazakhstan, including the timeliness, completeness and accuracy of the information, reporting, documents received.

**Footnote. Article 20 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

## **Article 21. Requirements for making payments and (or) money transfers for individual currency transactions**

1. Payments and (or) money transfers of residents (except for the authorized banks and branches (representative offices) of foreign organizations) for certain currency transactions, which can be aimed to withdraw money from the Republic of Kazakhstan, shall be made by the authorized banks only when a resident, who is a sender of the money or the recipient of money, submits a permit to the authorized bank to transfer information about this payment and (or) money transfer to currency control bodies.

The permit indicated in this paragraph shall be in free form. It shall be allowed to submit one permit in respect of all payments and (or) money transfers on currency transactions within the framework of a foreign exchange contract on the basis of which the currency transactions are carried out, which can be aimed to withdraw money from the Republic of Kazakhstan.

2. The following transactions, which can be aimed to withdraw money from the Republic of Kazakhstan, shall be:

1) a financial loan that provides for allocation of money by a non-resident to a resident (except for an authorized bank), unless the terms of the relevant foreign exchange contract provide for the transfer of money to be received from a non-resident, to the resident's bank accounts in the authorized banks;

2) a financial loan providing for a resident (except for an authorized bank) to claim a non-resident to return money, unless the terms of the relevant foreign exchange contract provide for the transfer of money to be received from a non-resident, to the resident's bank accounts in the authorized banks;

3) a financial loan that provides for allocation of money by a resident to a non-resident who is not an affiliated person for a period of more than seven hundred and twenty days without paying remuneration for using the subject of a financial loan;

4) export operations, if the terms of the relevant foreign exchange contract stipulate that the period for fulfillment of obligations to pay for exports by a non-resident exceeds seven hundred and twenty days from the date of fulfillment of obligations by the resident;

5) import payment transactions, if the terms of the relevant foreign exchange contract stipulate that the period for fulfillment of obligations to return money (advance payment or full prepayment) by a non-resident in case of the non-resident's failure to fulfill its import obligations exceeds seven hundred twenty days from the date of fulfillment of obligations by the resident.

The cases referred to in part one of this paragraph shall not include financial loans arising from commercial or Islamic finance transactions, as well as transactions, carried out by non-residents with their branches (representative offices) in the Republic of Kazakhstan, and transactions between branches (representative offices) of foreign organizations in the Republic of Kazakhstan.

For the purposes of this paragraph, the resident's affiliated person shall be:

1) a person who owns ten or more percent of the voting shares of the joint-stock company (ten or more percent of the votes of the participants) of the resident legal entity;

2) an entity in which this resident owns ten or more percent of the voting shares of the joint-stock company (ten or more percent of the votes of the participants);

3) a person who, together with this resident, is under the control of a third party.

## **Article 22. Restricted enforcement measures, supervisory response measures and sanctions**

1. When detecting violations of the currency legislation of the Republic of Kazakhstan, the currency control bodies shall have the right to apply the restricted enforcement measures, supervisory response measures and sanctions provided for by the laws of the Republic of Kazakhstan.

2. If the National Bank of the Republic of Kazakhstan reveals violations of the currency legislation of the Republic of Kazakhstan, the following applies:

1) administrative penalties in accordance with the Code of the Republic of Kazakhstan on Administrative Offenses, as well as the requirements are made to eliminate the identified violations in relation to the authorized banks;

2) administrative penalties in accordance with the Code of the Republic of Kazakhstan on Administrative Offenses, supervisory response measures and sanctions in accordance with the norms of the Law of the Republic of Kazakhstan "On banks and banking activity in the Republic of Kazakhstan" and other laws of the Republic of Kazakhstan in relation to the authorized organizations;

3) the limited measures of influence in the form of a written notification on the elimination of the identified violations, as well as administrative penalties in accordance with the Code of the Republic of Kazakhstan on Administrative Offenses in relation to other residents not specified in subparagraphs 1) and 2) of this paragraph, as well as non-residents carrying out currency operations on the territory of the Republic of Kazakhstan.

3. A written notification of the National Bank of the Republic of Kazakhstan on the elimination of the identified violations is mandatory for the entities specified in subparagraph 3) of paragraph 2 of this article, within the time period established in such notification.

Non-fulfillment of the written notification of the National Bank of the Republic of Kazakhstan on elimination of the revealed violations shall be the basis to conduct an inspection, including jointly with other currency control bodies within the competence.

**Footnote. Article 22 as amended by the Law of the Republic of Kazakhstan dated 03.07.2019 No. 262-VI (shall be enforced from 01.01.2020).**

### **Article 23. Rights and obligations of residents and non-residents**

1. Residents and non-residents, engaged in currency transactions in the territory of the Republic of Kazakhstan, shall have the right:

- 1) to get acquainted with the results of inspections, carried out by currency control bodies;
- 2) to appeal against the actions of currency control bodies and agents in the manner, established by the legislation of the Republic of Kazakhstan;
- 3) to exercise other rights, provided for by the legislation of the Republic of Kazakhstan.

2. Residents and non-residents, engaged in currency transactions in the territory of the Republic of Kazakhstan, shall be obliged:

- 1) to provide the currency regulation and currency control bodies and currency control agents with the reporting, information and documents on currency transactions conducted by them in order to fulfill the requirements, established by this Law and the currency legislation of the Republic of Kazakhstan;
- 2) to provide the currency control bodies and agents with the information and the requested documents, relating to the conduct of currency transactions, in the terms, established in a written request of the currency control body or regulatory legal acts of the National Bank of the Republic of Kazakhstan;
- 3) to provide the currency control bodies with explanations in the course of inspections and other forms of control, as well as their results;
- 4) to keep records and prepare reports on ongoing currency transactions, ensuring that the reports are kept for a period, established by the legislation of the Republic of Kazakhstan;
- 5) to fulfill the requirements (orders, instructions, notifications) of the currency control bodies on elimination of the violations revealed;
- 6) to provide the currency control bodies with access to their premises, documents and automated databases during the inspections.

## **Chapter 6. SPECIAL CURRENCY CONTROL REGIME**

### **Article 24. Special currency control regime**

1. In the cases of serious threats to the balance-of-payments stability, the stability of the domestic foreign exchange market and the economic security of the Republic of Kazakhstan, if the situation cannot be resolved by other measures of economic policy, a special currency control regime shall be introduced.

A special currency control regime shall be a special regime for conducting currency transactions, providing for a set of currency regulation measures, aimed at creating conditions for eliminating threats to the economic security of the Republic of Kazakhstan and the stability of its financial system and allowing for the introduction of certain currency restrictions for transactions, conducted by residents and non-residents, related to the use of currency values.

A special currency control regime shall be introduced by an act of the Government of the Republic of Kazakhstan on the basis of a joint recommendation of the National Bank of the Republic of Kazakhstan and the relevant authorized bodies.

Currency restrictions imposed under the special currency control regime shall be the temporary measures, non-discriminatory in nature and shall be canceled as the circumstances causing their establishment are eliminated.

The restrictions that can be imposed under a special currency control regime shall include:

1) the requirement to place a deposit without paying interest in the amount determined as a percentage of the amount of a currency transaction for a fixed period in an authorized bank or the National Bank of the Republic of Kazakhstan;

2) the requirement to obtain a special permit from the National Bank of the Republic of Kazakhstan to conduct currency transactions;

3) the requirement for the mandatory sale of foreign currency received by residents;

4) the restrictions on the use of accounts in foreign banks, the establishment of a date for the return of foreign currency earnings and limits on the amount, quantity and currency of settlement on currency transactions.

The Government of the Republic of Kazakhstan on the basis of the joint recommendation of the National Bank of the Republic of Kazakhstan and the relevant authorized bodies may introduce other temporary currency restrictions.

2. Requirements of a special currency control regime cannot restrict residents from fulfilling obligations to non-residents that have arisen as a result of fulfillment of obligations by non-residents under foreign exchange contracts with residents before introducing a special currency control regime, as well as the transfers of dividends, remuneration and other income, received on deposits and securities, made by non-residents.

3. Permits and notifications established by an act of the Government of the Republic of Kazakhstan on introduction of a special currency control regime shall not be subject to the Law of the Republic of Kazakhstan "On permits and notifications".

4. The act of the Government of the Republic of Kazakhstan on introduction of a special currency control regime shall contain:

1) a list of measures to be introduced and temporary restrictions on the conduct of transactions, related to the use of currency values;

2) the procedure for meeting the requirements of a special currency control regime, including the conditions for issuing a special permit;

- 3) the period of introduction and the duration of the special currency control regime.
5. The validity period of the special currency control regime cannot exceed one year.
- Upon expiration of the term for which the special currency control regime was introduced, such a regime shall be considered to be canceled.

The Government of the Republic of Kazakhstan, on the basis of the joint recommendation of the National Bank of the Republic of Kazakhstan and the relevant authorized bodies, shall have the right to extend the special currency control regime within the time limits, established by this paragraph, or to cancel it early in full or in part through the issuance of the relevant act

6. During the effect of the special currency control regime, residents and non-residents shall be obliged to comply with the requirements, established by the act of the Government of the Republic of Kazakhstan on introduction of a special currency control regime.

## **Chapter 7. FINAL PROVISIONS**

### **Article 25. Liability for violation of the currency legislation of the Republic of Kazakhstan**

Violation of the currency legislation of the Republic of Kazakhstan shall entail liability, established by the laws of the Republic of Kazakhstan.

### **Article 26. Procedure for enactment of this Law**

1. This Law shall enter into force on July 1, 2019, except for sub-paragraph 7 of paragraph 3 of Article 1, which comes into force on December 16, 2020.

2. To recognize the Law of the Republic of Kazakhstan dated June 13, 2005 "On currency regulation and currency control" as invalid (Bulletin of the Parliament of the Republic of Kazakhstan, 2005, No. 11, Article 38; 2007, No. 3, Article 20; 2008, No. 23, Article 114, 2009, No. 13-14, Article 63; 2010, No. 15, Article 71; 2012, No. 1, Article 6; No. 13, Article 91; No. 21-22, Article 124; 2014, No. 10, Article 52; No. 21, Article 122; No. 23, Article 143 ; 2015, No. 22-I, Article 140; No. 22-VI, Article 159; 2016, No. 12, Article 87, 2017, No. 14, Article 51, No. 23-III, Article 111).

*President of the  
Republic of Kazakhstan*

*N. NAZARBAYEV*