

## **On FX Regulation and FX Control**

*Footnote. Effective from 01.07.2019 in accordance with clause 1 of article 26 of this Law.*

This Law shall regulate public relations associated with implementation of FX operations, determine the objectives, tasks of FX regulation and FX control.

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

#### **Article 1. Basic concepts and terms used herein**

1. The following basic concepts are used herein:

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

2) currency values:

foreign currency;

securities and payment documents, the nominal value of which is expressed in foreign currency;

non-nominal securities issued by non-residents of the Republic of Kazakhstan;

refined gold in bars;

national currency, securities and payment documents, the nominal value of which is expressed in national currency, in cases of operations therewith between residents of the Republic of Kazakhstan and non-residents of the Republic of Kazakhstan, as well as their export (transfer) from the Republic of Kazakhstan or their export (transfer) from the Republic of Kazakhstan;

non-denominated securities issued by residents of the Republic of Kazakhstan in cases of operations therewith 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 export thereof from the Republic of Kazakhstan or import into the Republic of Kazakhstan;

3) FX operations:

are the operations related to transfer of ownership and other rights to currency values, as well as use of currency values as a payment instrument;

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

transfer of currency values into trust management;

transfer of currency values on the basis of a brokerage service agreement;

4) FX agreement means the agreements, constituent documents, including amendments and (or) supplements thereto, as well as other documents on the basis of and (or) in fulfillment of which the FX operations are conducted;

5) accounting number is an identification number assigned to a FX agreement or a foreign bank's account by the National Bank of the Republic of Kazakhstan or by an authorized bank and designed to ensure the accounting and reporting of FX operations;

6) import is a transfer of goods by non-resident of the Republic of Kazakhstan to resident of the Republic of Kazakhstan, partial transfer of exclusive rights to intellectual property items, fulfillment of works, rendering of services, leasing of property by non-resident of the Republic of Kazakhstan to resident of the Republic of Kazakhstan;

7) refined gold in bars is gold obtained as a result of refining and produced in the form of measured and standard bars, related to investment gold in accordance with the Law of the Republic of Kazakhstan "On Precious Metals and Precious Stones";

7-1) state revenue authority is a state authority, which within its competence is engaged in ensuring the receipt of taxes and other obligatory payments to the budget, customs regulation in the Republic of Kazakhstan, powers to prevent, detect, suppress and disclose administrative offenses attributed by the legislation of the Republic of Kazakhstan to the jurisdiction of this authority, as well as exercising other powers stipulated by the legislation of the Republic of Kazakhstan;

8) authorized banks are banks and organizations established in the Republic of Kazakhstan engaged in certain types of banking operations (except for authorized organizations), as well as branches of foreign banks operating in the Republic of Kazakhstan, which conduct FX operations, including on behalf of customers;

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

10) national currency:

monetary symbols in the form of banknotes and coins of the National Bank of the Republic of Kazakhstan, which are in circulation and are legal payment instrument on the territory of the Republic of Kazakhstan, as well as withdrawn or to be withdrawn from circulation, but subject to exchange for monetary symbols in circulation;

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

11) foreign currency:

monetary symbols in the form of banknotes, coins, which are in circulation and are legal payment instrument on the territory of a foreign state (group of states), as well as

withdrawn or to be withdrawn from circulation, but subject to exchange for monetary symbols in circulation;

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

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

13) export is transfer of goods by resident of the Republic of Kazakhstan to non-resident of the Republic of Kazakhstan, partial transfer of exclusive rights to intellectual property items by resident of the Republic of Kazakhstan to a non-resident of the Republic of Kazakhstan, fulfillment of works, rendering of services, leasing of property by resident of the Republic of Kazakhstan to non-resident of the Republic of Kazakhstan.

2. For the purposes of classification of FX operations herein, the following basic terms are applied:

1) participation in capital:

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

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

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

financial loans;

participation in capital;

operations with securities, participating interests and derivative financial instruments;

acquisition of ownership right to immovable property, except for movable items equated or referred to immovable property by the laws of the Republic of Kazakhstan;

acquisition of fully exclusive rights to intellectual property items;

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

transfer of money and financial instruments to professional participants of securities market, engaged in FX operations as instructed by customers, to accounts for accounting and storage of money owned by customers;

gratuitous transfer of money and other currency values;

3) financial loans:

loans, except for obligations arising from prepayment, postponement and installment payments for exports or imports;

money transferred to secure the fulfillment of debtor's obligations;

financing against assignment of monetary claims of suppliers and recipients (sellers and buyers) of goods (works, services);

financing by third parties of acquisition of goods (works, services) and other transactions, as well as fulfillment by third parties of debtor's obligations to creditor, resulting in occurrence of obligation of a person for whom the obligation is fulfilled on return of money and other property to a person who provided such financing and (or) performed such fulfillment;

financial leasing, lease of immovable property with subsequent redemption, except for lease of movable items equated or referred to immovable property by the laws of the Republic of Kazakhstan;

4) foreign financial organizations are foreign banks and other financial institutions established in accordance with legislation of foreign states and engaged in business on provision of financial services on the basis of legislation of states where they are registered;

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

For the purposes of this Law, the following are the FX operations related to import or export of goods and services:

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

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

3. Residents of the Republic of Kazakhstan (the “residents”) for the purposes of this Law and other regulatory legal instruments in the area of FX regulation and FX control include:

citizens of the Republic of Kazakhstan, except for citizens of the Republic of Kazakhstan permanently residing 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 permanent residence permit in the Republic of Kazakhstan;

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

international organizations with their seat in the Republic of Kazakhstan, if an international treaty on establishment thereof determines a resident status therefor;

foreign missions of the Republic of Kazakhstan;

branches of foreign financial organizations, which 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;

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*Footnote. Paragraph 7 of clause 3 is effective from 16.12.2020 in accordance with clause 1 of article 26 of this Law.*

branches (representative offices) of foreign non-financial organizations that are permanent establishments 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 Obligatory Payments to the Budget” (the “Tax Code”), except for branches (representative offices) of foreign non-financial organizations recognized as non-residents of the Republic of Kazakhstan in accordance with clause 4 of this article.

4. Non-residents of the Republic of Kazakhstan (the “non-residents”) for the purposes of this Law and other regulatory legal instruments in the area of FX regulation and FX control include:

individuals who are not residents in accordance with clause 3 of this article;

legal entities and organizations that do not form a legal entity, established in accordance with legislation of foreign states, with location 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 formation of a legal entity, as well as branches (representative offices) of foreign non-financial organizations.

branches (representative offices) of foreign non-financial organizations for which the non-resident status under the FX 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 prior to enactment of this Law;

international organizations, unless an international treaty on establishment thereof determines otherwise;

diplomatic and other official representations of foreign states.

The list of branches (representative offices) of foreign non-financial organizations, for which non-resident status under the FX 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 the Order of the Government of the Republic of Kazakhstan.

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

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*Footnote. Article 1 as amended by the Laws of the Republic of Kazakhstan dated 03.07.2019 No.262-VI (effective from 01.01.2020); dated 12.07.2023 No.23-VIII (effective from 01.01.2024).*

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## **Article 2. Scope of this Law**

This Law shall be valid on the territory of the Republic of Kazakhstan and shall apply to residents and non-residents engaged in FX operations on the territory of the Republic of Kazakhstan.

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

The provisions of this Law and regulatory legal instruments of the FX regulation authority adopted in accordance with this Law to the extent provided for by the terms of the special regulatory mode shall apply to authorized organizations and other legal entities operating under the special regulatory mode introduced in accordance with the Law of the Republic of Kazakhstan “On State Regulation, Control and Supervision of the Financial Market and Financial Organizations”.

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

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

1. FX legislation of the Republic of Kazakhstan shall be based on the Constitution of the Republic of Kazakhstan and consists of this Law, other laws of the Republic of Kazakhstan, decrees of the President of the Republic of Kazakhstan, as well as regulatory legal instruments of FX regulation and FX control bodies issued in accordance with the established competence of the Republic of Kazakhstan.

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

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

## **Article 4. Objectives and tasks of FX regulation and FX control**

1. The objectives of FX regulation are to promote state policy to achieve sustainable economic growth and development of international cooperation of the Republic of Kazakhstan, to contribute to the sustainability of the balance of payments, stability of the domestic FX market and economic security of the Republic of Kazakhstan.

The tasks of FX regulation are:

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

2) facilitating further integration of the Republic of Kazakhstan into the global economy;

3) providing information base on FX operations and international financial assets and liabilities of the Republic of Kazakhstan.

2. The objective of FX control is to ensure that residents and non-residents comply with the FX legislation of the Republic of Kazakhstan when conducting FX operations.

The tasks of FX control are:

1) determination of compliance of FX operations with the FX legislation of the Republic of Kazakhstan;

2) verification of validity of payments and (or) money transfers under FX operations and availability of documents required for implementation thereof;

3) verification of completeness, timeliness and objectivity of accounting and reporting on FX operations.

## **Chapter 2. FX REGULATION**

### **Article 5. FX regulation bodies**

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

2. The Government of the Republic of Kazakhstan and state bodies shall implement FX 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 the limits of their competence, shall issue regulatory legal instruments binding on residents and non-residents.

Drafts sublegal regulatory legal instruments on FX regulation issues developed by state bodies are subject to approval by the National Bank of the Republic of Kazakhstan.

4. The National Bank of the Republic of Kazakhstan as the main FX regulation body shall approve:

1) rules for FX operations in the Republic of Kazakhstan;

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

3) *excluded by the Law of the Republic of Kazakhstan dated 12.07.2023 No.23-VIII (effective from 01.01.2024).*

4) rules for monitoring of FX operations in the Republic of Kazakhstan;

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

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

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

6. Forms of accounting and reporting on FX operations, as well as the procedure and terms of submission thereof shall be determined by the National Bank of the Republic of Kazakhstan in coordination with the authorized state bodies in accordance with their competence.

7. The National Bank of the Republic of Kazakhstan, jointly with the authorized body engaged in ensuring the receipt of taxes and other obligatory payments to the budget, shall approve the rules of export-import FX control in the Republic of Kazakhstan.

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*Footnote. Article 5 as amended by the Laws of the Republic of Kazakhstan dated 03.07.2019 No.262-VI (effective from 01.01.2020); dated 12.07.2023 No.23-VIII (effective from 01.01.2024).*

## **Article 6. FX operations of residents and non-residents**

1. FX operations between residents on the territory of the Republic of Kazakhstan are prohibited, except for:

1) operations where one of the parties is the National Bank of the Republic of Kazakhstan, the Ministry of Finance of the Republic of Kazakhstan, as well as foreign institutions of the Republic of Kazakhstan;

2) operations, one of the parties to which are residents, who have the right to conduct FX operations with residents granted by the laws of the Republic of Kazakhstan or instruments of the President of the Republic of Kazakhstan adopted before enactment of this Law;

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

4) payment for banking services for FX operations;

5) operations related to acquisition, sale, payment of remuneration and (or) redemption of securities, nominal value of which is expressed in foreign currency;

6) operations between commissioners and customers when commissioners render services related to conclusion and execution of contracts with non-residents on export or import, including operations on return of currency values to customer;

7) operations on purchase and (or) sale of refined gold in bars for the national currency;

8) transfer of bills of exchange denominated in foreign currency as fulfillment of monetary obligations;

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

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

11) operations at payment of expenses of an individual related to his/her business trip outside the Republic of Kazakhstan, including representation expenses, as well as operations at repayment of unspent advance issued in connection with business trip outside the Republic of Kazakhstan;

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

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

14) transactions between professional participants of the securities market, engaged in FX operations on the instructions of state authorities, and individuals or legal entities related to transfer of money and financial instruments from accounts (to accounts) for accounting and storage of money and financial instruments owned by state authorities, within the framework of execution and termination of brokerage service agreements;

15) operations related to payment of taxes and other obligatory payments to the budget in cases stipulated by the Tax Code;

16) payments of recipient on behalf of the state of mineral resources, which, in accordance with the Tax Code, are transferred thereto in the account of fulfillment by subsoil user of tax obligation in kind, related to transportation, storage and sale of such mineral resources;

17) payments by individuals for goods, works and services under transactions concluded and performed in the territory of a special economic zone, boundaries of which fully or partially coincide with customs border of the Eurasian Economic Union.

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

3. Non-residents shall be entitled to freely receive and transfer money on any FX operations with their branches (representative offices) located in the Republic of Kazakhstan in accordance with the FX legislation of the Republic of Kazakhstan.

4. Non-residents are entitled to freely receive and transfer dividends, remuneration and other income received on deposits, securities, loans and other FX operations with residents, in accordance with the FX legislation of the Republic of Kazakhstan.

5. FX operations between non-residents on the territory of the Republic of Kazakhstan shall be carried out without restrictions in accordance with the FX legislation of the Republic of Kazakhstan.

6. Terms and procedure of FX operations related to provision of financial and professional services on the territory of Astana International Financial Center shall be determined by the instruments of Astana International Financial Center International Financial Center in coordination with the National Bank of the Republic of Kazakhstan.

7. FX operations between residents and non-residents, in respect of which this Law does not establish requirements, shall be carried out without restrictions in accordance with the FX legislation of the Republic of Kazakhstan.

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

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*Footnote. Article 6 as amended by the laws of the Republic of Kazakhstan dated 03.04.2019 No.243-VI (shall be put in effect ten calendar days after the date of its first official publication); dated 03.07.2019 No.262-VI (effective from 01.01.2020).*

## **Article 7. Payments and (or) money transfers on FX operations of residents and non-residents**

1. Payments and (or) money transfers on FX operations of residents and non-residents shall be made through bank accounts with authorized banks in accordance with the procedure established by the FX legislation of the Republic of Kazakhstan.

It is allowed to make without opening and (or) using bank accounts with authorized banks:

1) payments and (or) money transfers of individuals, as well as payments and (or) money transfers in their favor in the national currency in the territory of the Republic of Kazakhstan;

2) money transfers of natural persons in cases stipulated by paragraph 4 of this article;

3) settlements at realization of goods in duty-free stores, as well as at realization of goods and rendering services to passengers en route in international transportation;

4) settlements of individuals with national and foreign currency in cash with authorized banks, as well as in exchange offices of authorized organizations;

5) payments of salaries to employees by legal entities and branches (representative offices) of foreign organizations;

6) operations at payment of expenses of an individual related to his/her business trip outside the Republic of Kazakhstan, including representation expenses, as well as operations at repayment of unspent advance payment issued in connection with business trip outside the Republic of Kazakhstan;

7) payments between individuals and non-resident legal entities carrying out their activities under customs control at airports, ports and border crossings open for international traffic;

8) payments between non-residents and residents for servicing vessels of foreign states at airports and seaports on the territory of the Republic of Kazakhstan, as well as

payments by non-residents for air navigation services, airport activities and seaport services for servicing international flights;

9) payments between residents and non-residents operating on 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 issuance (transfer) of a check, bill of exchange;

11) payments on purchase and (or) sale of foreign currency in cash between authorized banks and authorized organizations for the purposes of exchange operations with foreign currency in cash;

12) payments by individuals for goods, works and services under transactions concluded and executed on the territory of a special economic zone, the limits of which fully or partially coincide with the customs border of the Eurasian Economic Union;

13) payments and (or) money transfers on FX operations made outside of the Republic of Kazakhstan by resident individuals, foreign entities of the Republic of Kazakhstan;

14) payments and (or) money transfers under transactions with non-residents, made through accounts in foreign banks opened by residents in cases and in accordance with the procedure established by this Law, as well as payments and (or) money transfers through correspondent accounts of authorized banks in foreign banks;

15) money transfers from accounts of non-residents in foreign banks, made thereby on account of fulfillment of resident's obligations, in cases stipulated by the rules of FX operations in the Republic of Kazakhstan.

2. Foreign currency in cash received by legal entities and branches (representative offices) of foreign organizations when conducting FX operations on the territory of the Republic of Kazakhstan (except for the territory of the special economic zone, the limits of which fully or partially coincide with the sections of the customs border of the Eurasian Economic Union), shall be credited to bank accounts with authorized banks.

The procedure for residents and non-residents to carry out operations on the bank account in the authorized bank, related to the withdrawal, crediting and use of foreign currency in cash, shall be determined by the rules of FX operations in the Republic of Kazakhstan.

3. Payments and (or) money transfers on capital flow operations, as well as payments and (or) money transfers under FX agreements, in respect of which, in accordance with this Law, it is necessary to obtain an accounting number, shall be made only through bank accounts.

4. Individuals are entitled to make the following money transfers under FX operations without opening and (or) using an account with an authorized bank within the limits established by the National Bank of the Republic of Kazakhstan:

1) gratuitous money transfers on 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 favor of a state;

3) other money transfers from the Republic of Kazakhstan and to the Republic of Kazakhstan, which are not related to entrepreneurial activity of an individual and FX agreements, for which in accordance with this Law it is necessary to obtain an accounting number.

Procedure for conducting money transfers by individuals without opening and (or) using a bank account with an authorized bank, including the threshold value for the amount of transfer without opening and (or) using a bank account, shall be determined by the rules for FX transactions in the Republic of Kazakhstan.

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*Footnote. Article 7 as amended by the laws of the Republic of Kazakhstan dated 03.04.2019 No.243-VI (shall be put in effect ten calendar days after the date of its first official publication); dated 03.07.2019 No.262-VI (effective from 01.01.2020).*

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

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

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

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

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

1. Repatriation of national and (or) foreign currency on export or import is the crediting to bank accounts with authorized banks of:

1) proceeds in national and (or) foreign currency from exports;  
2) national and (or) foreign currency transferred by a resident in favor of a non-resident for import settlements in cases of non-fulfillment or incomplete fulfillment of obligations by non-resident.

2. Resident (except for a branch (representative office) of foreign organization) is obliged to ensure repatriation of national and (or) foreign currency within the terms stipulated by the FX agreement on exports or imports.

The period within which a resident (except for a branch (representative office) of foreign organization) fulfills the repatriation requirement (the “repatriation period”) shall be determined based on the terms of fulfillment of obligations by the parties to FX agreement on export or import in accordance with the procedure determined by the rules of export-import FX control in the Republic of Kazakhstan.

Terms of FX agreement on export or import, which is subject to repatriation requirement, shall provide for terms of fulfillment of obligations by non-residents. Authorized banks servicing FX agreements on export or import shall be entitled to demand from resident to specify the repatriation period.

National and (or) foreign currency subject to repatriation and credited to accounts with foreign banks shall be transferred to resident's accounts (except for a branch (representative office) of foreign organization) with authorized banks before expiration of the repatriation period.

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

1) crediting of national and (or) foreign currency to resident's accounts with foreign banks designed to secure resident's obligations in accordance with the terms of a financial loan attracted from non-resident or to ensure the activity of resident's branches (representative offices) opened abroad;

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

3) crediting FX revenue to accounts of resident transport organizations with foreign banks for the purpose of paying expenses related to payment of port and other fees in foreign countries and servicing vehicles of such transport organizations and their passengers located outside the Republic of Kazakhstan, as well as expenses for ensuring activities of branches (representative offices) of such transport organizations located outside the territory of the Republic of Kazakhstan;

4) termination of non-resident's obligation by offsetting a counterclaim under FX agreements on export or import;

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

6) receipt of insurance payments upon occurrence of insured event under insurance contracts for risk of non-fulfillment of obligations by non-resident.

4. If resident assigns the right to claim against non-resident to another resident, the corresponding obligation to ensure repatriation for export or import within the established time limit shall pass to resident who has accepted the right to claim.

Under FX agreements on export or import subject to repatriation requirements, the assignment by resident to individual who is not an entity engaged in business of its claim

against non-resident, as well as the gratuitous assignment by resident to non-resident of its claim against another non-resident, is not permitted.

5. The State Revenue Authority, together with the National Bank of the Republic of Kazakhstan and FX control agents shall monitor the flow of money and other fulfillment of obligations under individual FX agreements on export or import in order to control the fulfillment of repatriation requirements by residents (except for branches (representative offices) of foreign organizations).

For the purposes of such monitoring, the authorized bank servicing the FX agreement on export or import shall assign it an accounting number, which is subsequently indicated when submitting reports on FX agreement on export or import to FX control authorities.

6. Procedure for obtaining accounting numbers for FX agreements on export or import, monitoring of cash flows and other fulfillment of obligations under such agreements, including forms and deadlines for submitting reports and deadlines for submitting documents evidencing occurrence, fulfillment, and termination of obligations and/or circumstances that affect the terms and/or conditions of repatriation of national and/or foreign currency, as well as the conditions and criteria, including the threshold amount of FX agreement on export or import, in the presence of which FX agreements on export or import are subject to control over compliance with the repatriation requirement, and exceptions to repatriation requirement, the procedure for transferring information and (or) documents on FX agreements on export or import shall be determined by the rules for implementation of export-import FX control in the Republic of Kazakhstan.

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*Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan dated 12.07.2023 No.23-VIII (effective from 01.01.2024).*

## **Chapter 3. INTERNAL FX MARKET**

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

1. The internal FX market of the Republic of Kazakhstan shall be defined as the totality of relations between residents and non-residents related to purchase and/or sale of foreign currency carried out on the territory of the Republic of Kazakhstan in accordance with this Law.

2. Authorized banks that have the right to carry out foreign currency exchange operations in accordance with the license issued thereto by authorized body for regulation, control, and supervision of the financial market and financial organizations or the laws of the Republic of Kazakhstan shall be entitled 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 with authorized banks in accordance with the procedure established by the rules for carrying out FX operations in the Republic of Kazakhstan.

Authorized organizations shall be entitled to carry out operations with authorized banks for purchase and (or) sale of cash foreign currency for the purposes of their activities on the basis of agreements concluded therewith.

4. Purchase and/or sale of cash foreign currency for other cash foreign or cash national currency by individuals in the Republic of Kazakhstan shall be carried out exclusively through exchange offices.

5. The National Bank of the Republic of Kazakhstan shall monitor sources of demand and supply in the internal FX market of the Republic of Kazakhstan and purposes for which foreign currency is used.

Authorized banks shall submit information to the National Bank of the Republic of Kazakhstan on sources of demand and supply in the internal FX market of the Republic of Kazakhstan and purposes for which acquired foreign currency is used.

Procedure for authorized banks to submit information on sources of demand and supply in internal FX market of the Republic of Kazakhstan and purposes of using the acquired foreign currency, including the forms and deadlines for submitting reports, shall be determined by the rules for monitoring sources of demand and supply in the internal FX market of the Republic of Kazakhstan.

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

7. Procedure for purchasing and/or selling non-cash foreign currency in the internal FX market of the Republic of Kazakhstan, requirements for resident legal entities (except for authorized banks) to confirm the purposes of purchasing foreign currency for national currency in the internal FX market of the Republic of Kazakhstan and its use, as well as threshold value for purchase amount, above which these requirements apply, shall be determined by the rules for conducting FX operations in the Republic of Kazakhstan.

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

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

1. Exchange operations with cash foreign currency in the Republic of Kazakhstan, including purchase and/or sale of cash foreign currency for other cash foreign currency or cash national currency, shall be carried out by authorized organizations or authorized

banks that have the right to carry out exchange operations with cash foreign currency in accordance with the license issued thereto by the National Bank of the Republic of Kazakhstan, 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 for purchase and (or) sale of cash foreign currency in the Republic of Kazakhstan.

2. Procedure for purchase and (or) sale of cash foreign currency in exchange offices, establishment of purchase and (or) sale exchange rates of cash foreign currency for other cash foreign or cash national currency shall be determined by the rules for conducting exchange operations with cash foreign currency in the Republic of Kazakhstan.

3. The National Bank of the Republic of Kazakhstan shall be entitled to establish limits on deviation of purchase exchange rates from sale exchange rates of cash foreign currency for cash national currency for operations conducted through exchange offices. Types of foreign currencies and corresponding limits on exchange rate deviations shall be established by the National Bank of the Republic of Kazakhstan.

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

## **Article 12. Requirements for conducting exchange operations with cash foreign currency**

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

1. Authorized bank that has the right to carry out exchange operations with cash foreign currency in accordance with the license issued thereto by the authorized body for regulation, control, and supervision of the financial market and financial organizations or the laws of the Republic of Kazakhstan shall notify the National Bank of the Republic of Kazakhstan of commencement or termination of activities of exchange offices.

Authorized bank shall notify the National Bank of the Republic of Kazakhstan of commencement of exchange operations not later than the date of commencement of operations by exchange office. The National Bank of the Republic of Kazakhstan shall confirm receipt of notification to authorized bank within three business days of the date of notification.

2. Authorized organization shall carry out activities on the basis of a license issued by the National Bank of the Republic of Kazakhstan for exchange operations with cash foreign currency and annexes thereto, which is issued for each exchange office of authorized organization.

Authorized organizations shall be entitled to carry out, through their exchange offices, operations for purchase and/or sale of refined gold in bars issued by the National Bank of the Republic of Kazakhstan.

Authorized organizations shall be prohibited to participate in authorized capital of other legal entities.

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

4. Authorized organization shall have premises for exchange office in order to obtain the license from the National Bank of the Republic of Kazakhstan for exchange operations with cash foreign currency and/or annexes thereto.

In order to obtain license and/or annex thereto, in addition to the documents specified by the Law of the Republic of Kazakhstan “On Permits and Notifications,” authorized organizations shall submit to the National Bank of the Republic of Kazakhstan a certificate from authorized bank confirming foreign currency account.

Documents shall be submitted under the terms and conditions specified in the rules for conducting exchange operations with cash foreign currency in the Republic of Kazakhstan.

5. Issuance of license (including its annex) for exchange operations with cash foreign currency or refusal to issue license (including its annex) shall be carried out within twenty business days from the date of submission by authorized organization of all documents and information provided for by this Law and the Law of the Republic of Kazakhstan “On Permits and Notifications”.

Issuance of annex to valid license, reissuance of license and/or its annex, or refusal to issue such documents shall be carried out within ten business days from the date of submission by authorized organization of all documents and information provided for by this Law and the Law of the Republic of Kazakhstan “On Permits and Notifications.”

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

6. The following are the grounds for refusal to issue or reissue license and/or annex thereto:

1) failure to submit documents and/or information required by this Law and the Law of the Republic of Kazakhstan “On Permits and Notifications”;

2) non-compliance of applicant and/or documents and/or information submitted with the requirements established by this Law and the Law of the Republic of Kazakhstan “On Permits and Notifications”.

7. Procedure for licensing authorized organizations, including qualification requirements therefor, notifications to authorized bank about commencement or termination of activities of exchange offices, requirements for conducting exchange

operations with cash foreign currency, conditions for operation of exchange offices and procedure for conducting operations for purchase and (or) sale of refined gold in bars issued by the National Bank of the Republic of Kazakhstan, as well as forms and deadlines for submission of reports by authorized banks and authorized organizations shall be determined by the rules for conducting exchange operations with cash foreign currency in the Republic of Kazakhstan.

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

## **Chapter 4. MONITORING OF FX OPERATIONS.**

### **SUBMISSION OF INFORMATION ON FX OPERATIONS AND ACCOUNTS WITH FOREIGN BANKS**

#### **Article 13. Monitoring of FX operations**

1. The National Bank of the Republic of Kazakhstan shall monitor FX operations by obtaining information on FX operations from residents participating in FX operations and authorized banks that make payments and/or money transfers under FX operations, as well as accounts with foreign banks.

For the purposes of monitoring FX operations, the National Bank of the Republic of Kazakhstan shall:

1) keep records of FX agreements on the basis of and (or) in pursuance of which capital flows are made (the “FX agreements on capital flows”) and obtain information on FX operations carried out thereunder and related requirements for non-residents and obligations to non-residents;

2) receive notifications of FX operations carried out, including information on payments and/or money transfers carried out under FX operations;

3) receive notifications of accounts with foreign banks opened by residents (except for bank and branch (representative office) of foreign organization) and keep records of such accounts;

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

2. For the purpose of organizing and conducting monitoring of FX operations, the National Bank of the Republic of Kazakhstan or authorized banks, in cases established by this Law, shall assign accounting numbers to FX agreements on the basis of and/or in accordance with which FX operations are conducted, as well as to accounts of residents (except for bank and branch (representative office) of foreign organization) with foreign banks. The National Bank of the Republic of Kazakhstan shall assign accounting numbers

to FX agreements on capital flows, accounts of residents (except for bank and branch (representative office) of foreign organization) with foreign banks, as well as FX agreements on export or import, settlements under which are made through such accounts. Authorized banks shall assign accounting numbers to FX agreements on export or import, settlements under which are made through accounts with authorized banks.

If FX agreement on capital flow also provides for the implementation of export or import and settlements thereunder are made through bank accounts with authorized banks, then resident (with the exception of authorized bank and branch (representative office) of foreign organization) shall apply to authorized bank for assignment of accounting number to such FX agreement.

3. When assigning accounting number to FX agreement, the National Bank of the Republic of Kazakhstan or authorized bank shall be entitled to request the following information and/or documents from resident participating in FX agreement, in addition to submitted copy of FX agreement:

1) information on participants in FX agreement, including identification data, country of registration, information on participation of one party to FX agreement in capital of other party to FX agreement;

2) information on transaction, including details and amount of FX agreement, currency of FX agreement and settlements thereunder, date of completion of obligations under FX agreement;

3) information on accounts through which transaction is settled;

4) changes and/or additions to FX agreement made by its participants, and other documents of FX agreement participants related to transaction being made.

## **Article 14. Accounting registration of FX agreements on capital flows**

1. Accounting registration of FX agreement on capital flows involves the assignment of accounting number to such agreement and subsequent submission by resident - party to FX agreement on capital flows to the National Bank of the Republic of Kazakhstan of information and reports on the agreement using the accounting number.

Accounting registration requirements shall apply to FX agreements on capital flows where participants are residents (except for authorized banks and branches (representative offices) of foreign organizations).

2. Resident (except for authorized bank and branch (representative office) of foreign organization) who is a party to FX agreement on capital flows shall apply to the National Bank of the Republic of Kazakhstan for assignment of accounting number to FX agreement on capital flow before any of the parties to such FX agreement starts to fulfill its obligations thereunder.

If fulfillment of obligations under FX agreement on capital flow by resident is preceded by transfer of property (receipt of money) from non-resident to resident, the application for assignment of accounting number to FX agreement on capital flow shall

be submitted before transfer of property (receipt of money) to resident and/or crediting of received money to resident's bank accounts with authorized banks.

If, as a result of amendment and/or additions to FX agreement on capital flow, it meets the criteria and conditions for accounting registration, accounting number to FX agreement on capital flow shall be assigned before the parties start to fulfill their obligations under amended FX agreement on capital flow (before transfer of property (receipt of money) to resident, if, after amendments and/or additions to FX agreement on capital flow, the non-resident started fulfillment of its obligations).

For FX agreements on capital flow subject to accounting registration, payments and/or money transfers through bank accounts with authorized banks shall be made only if accounting number is assigned.

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

1) application indicating resident's identification number, for individuals – copy of identity document attached;

2) copies of FX agreement on capital flow and amendments and/or additions thereto relating to obligations under FX agreement on capital flow.

The National Bank of the Republic of Kazakhstan shall be entitled to request originals of above mentioned documents for review, as well as other documents and/or information relating to implementation of capital flow operations and/or those referred thereto in the documents submitted.

Documents prepared in foreign language shall be submitted to the National Bank of the Republic of Kazakhstan with translation into Kazakh or Russian.

Assignment of accounting number to FX agreement on capital flow shall be made within five business days from the date of submission by resident of all documents and information provided for in this clause.

4. Requirements for accounting registration shall not apply to FX agreements on capital flow involving the National Bank of the Republic of Kazakhstan and the Ministry of Finance of the Republic of Kazakhstan.

5. Procedure for residents (except for authorized banks and branches (representative offices) of foreign organizations) to obtain accounting numbers for FX agreements on capital flow and deadlines for submitting documents evidencing creation, execution, and termination of obligations, procedure for monitoring the flow of money and other fulfillment of obligations under FX agreements on capital flow, including forms and deadlines for submitting reports by authorized banks and residents who are parties to such agreements, conditions and criteria, including threshold value of FX agreement on capital flow, whereunder such agreements are subject to accounting registration, and exceptions to accounting registration procedure shall be determined by the rules for monitoring FX operations in the Republic of Kazakhstan.

6. Requirements of this article shall not apply to FX operations conducted by participants of Astana International Financial Center on its territory.

## **Article 15. Notification on FX operations conducted**

1. Notification on FX operations conducted, including on behalf of state authorities, shall be carried out by authorized banks in the form of reports sent to the National Bank of the Republic of Kazakhstan.

21. Authorized banks shall notify on FX operations amount of which is equal to or exceeds threshold value, based on information received during execution of payments and/or money transfers.

Customer, whether resident or non-resident, shall provide authorized bank with the following information for making a payment and (or) money transfer under FX operation in amount equal to or exceeding threshold value:

- 1) country of registration of sender and beneficiary as indicated in payment document, if this information does not match that specified in payment document;
- 2) indication of intra-company money transfers (for operations made by legal entity with its structural subdivisions or between structural subdivisions of the same legal entity);
- 3) FX operations code whereunder payment and/or money transfer is made.

If customer is resident, the following additional information on FX agreement on the basis of and/or in execution of which payment and/or money transfer is made under FX operations shall be provided:

- 1) information on sender and recipient of money under FX agreement, if it does not match with sender and beneficiary in payment document;
- 2) country of registration of sender and recipient of money under FX agreement, if it does not match with sender and beneficiary in payment document;
- 3) details of FX agreement and accounting number of FX agreement (if any).

Information specified in this clause regarding payments and/or money transfers under FX operations shall be submitted to authorized bank by customer or shall be specified by authorized bank independently on the basis of documents and (or) information submitted by customer. Authorized bank, as FX control agent, shall ensure correctness of FX operation code and other information specified in this clause.

Threshold value for amount of payment and/or transfer of funds under FX operation subject to notification, FX operation codes and procedure for submitting information specified in this clause shall be determined by the rules for conducting FX operations in the Republic of Kazakhstan.

3. Procedure for notification on FX operations carried out by authorized banks, including forms and deadlines for submitting reports, shall be determined by the rules for monitoring FX operations in the Republic of Kazakhstan.

Requirements for list of information and procedure for its submission by authorized banks conducting FX operations on behalf of participants of Astana International Financial Center shall be determined by the instruments of Astana International Financial Center in agreement with the National Bank of the Republic of Kazakhstan.

4. The National Bank of the Republic of Kazakhstan, for the purpose of clarifying circumstances of FX operations, shall be entitled to request from FX control agents or resident-sender or resident-beneficiary, in relation to payments and/or money transfers included in notification, a copy of FX agreement on the basis of and/or in accordance with which such payment and/or money transfer was made, as well as other information on such FX agreement.

5. Requirements of this article shall not apply to FX operations conducted by participants of Astana International Financial Center on its territory.

## **Article 16. Notification on accounts with foreign banks**

1. Resident-legal entity (except for bank and branch (representative office) of foreign organization) shall notify the National Bank of the Republic of Kazakhstan of opening of account with foreign bank by applying for assignment of accounting number for such account prior to conducting operations using such account.

Resident-legal entity (except for bank and branch (representative office) of foreign organization) shall submit to the National Bank of the Republic of Kazakhstan information on operations using the account opened with foreign bank, indicating the accounting number.

In order to assign accounting number to account with foreign bank, resident-legal entity (except for bank and branch (representative office) of foreign organization) shall submit application indicating business identification number and copy of foreign bank's document with specified account details.

In cases of change in details or closure of account with foreign bank to which accounting number is assigned, resident-legal entity (except for bank and branch (representative office) of foreign organization) shall notify the National Bank of the Republic of Kazakhstan thereof within the established time limits.

2. Residents-individuals shall not notify the National Bank of the Republic of Kazakhstan on accounts with foreign banks. Authorized bank that makes such money transfers shall notify the National Bank of the Republic of Kazakhstan on money transfers by individuals from their own accounts (to their own accounts) with foreign banks.

3. Procedure for residents-legal entities (except for banks and branches (representative offices) of foreign organizations) to obtain accounting numbers for accounts with foreign banks, notification thereby on changes in account details or closure of accounts with foreign banks, including forms and deadlines for submitting reports on money flows on such accounts, procedure for authorized banks to submit reports on

money transfers by individuals shall be determined by the rules for monitoring FX operations in the Republic of Kazakhstan.

4. Requirements of this article shall not apply to participants of Astana International Financial Center.

### **Article 17. Submission of information for the purposes of monitoring FX operations**

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

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

2. Instruments of Astana International Financial Center, in agreement with the National Bank of the Republic of Kazakhstan, shall establish requirements for participants of Astana International Financial Center to submit information on FX operations, as well as procedure for information exchange between authorities of Astana International Financial Center and the National Bank of the Republic of Kazakhstan.

## **Chapter 5. FX CONTROL**

### **Article 18. FX control authorities, agents, and entities**

1. FX control in the Republic of Kazakhstan shall be exercised by the Government of the Republic of Kazakhstan, the National Bank of the Republic of Kazakhstan, and other FX control authorities and agents in accordance with this Law and the legislation of the Republic of Kazakhstan.

2. Authorities responsible for FX control in the Republic of Kazakhstan shall include the National Bank of the Republic of Kazakhstan and other state authorities in accordance with the competence established by the legislation of the Republic of Kazakhstan.

FX control agents shall include authorized banks, authorized organizations, and professional securities market participants that carry out FX operations on behalf of state authorities.

3. FX control in the Republic of Kazakhstan shall be carried out in relation to residents, including financial organizations that engaged in FX operations, as well as non-

residents that engaged in FX operations on the territory of the Republic of Kazakhstan (the “FX control entities”).

FX control in relation to financial organizations shall be carried out by the National Bank of the Republic of Kazakhstan. FX control with respect to other persons shall be carried out by the state revenue authority, the National Bank of the Republic of Kazakhstan and/or other FX control bodies within the limits of their competence.

4. The National Bank of the Republic of Kazakhstan shall interact with other FX control bodies and coordinate the information exchange between FX control agents and other FX control bodies.

*Footnote. Article 18 amended by the Law of the Republic of Kazakhstan dated 12.07.2023 No.23-VIII (effective from 01.01.2024).*

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

1. FX control bodies and agents, within the limits of their competence, shall control over FX operations conducted by residents and non-residents in the Republic of Kazakhstan in terms of compliance with the FX legislation of the Republic of Kazakhstan.

2. FX control bodies shall be entitled to determine procedure for reporting on FX operations, request documents and/or information related to FX operations, demand elimination of identified violations, causes and conditions that contributed to commitment thereof, and take other measures provided for by the legislation of the Republic of Kazakhstan, which are binding on all residents and non-residents in the Republic of Kazakhstan.

3. FX control agents shall undertake to:

1) control over compliance with requirements of the FX legislation of the Republic of Kazakhstan when conducting operations, including on behalf of state authorities;

2) ensure the completeness and objectivity of accounting and reporting on FX operations;

3) report any violations of the FX legislation of the Republic of Kazakhstan committed by their state authorities to the National Bank of the Republic of Kazakhstan, as well as other FX 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) provide FX control authorities with information on FX operations conducted with their participation, in accordance with procedure established by the FX legislation of the Republic of Kazakhstan.

4. FX control authorities and agents shall undertake to keep confidential, in accordance with the legislation of the Republic of Kazakhstan, commercial, banking, and other legally protected secrets that become known thereto in the course of exercising their powers, including when exchanging information in electronic form in accordance with

the FX legislation of the Republic of Kazakhstan, except for its submission in accordance with the laws of the Republic of Kazakhstan.

5. Authorized bank shall make payments and/or money transfers on FX operations of residents and/or non-residents only upon presentation by the latter of documents and/or information required in accordance with the FX legislation of the Republic of Kazakhstan.

6. In order to ensure compliance with requirements of the FX legislation of the Republic of Kazakhstan, FX control agents in accordance with this Law shall be entitled to require submission by residents and non-residents when conducting FX operations:

- 1) for individuals – identity document;
- 2) for foreigners and stateless persons –document confirming right of permanent residence in the Republic of Kazakhstan (if any);
- 3) for legal entities and organizations that are not legal entities – constituent and other documents, including those identifying participants of this entity;
- 4) FX agreement or copy thereof, including comment on assignment of accounting number in cases established by this Law;
- 5) license in cases established by this Law;
- 6) documents and/or information evidencing fulfillment of or on the basis of which obligations under FX agreements shall be fulfilled;
- 7) information on payments and/or money transfers under FX operations in accordance with Article 15 of this Law.

Authorized bank shall be entitled to request for review originals of FX agreements and other documents required by this clause, as well as translations into Kazakh or Russian of documents prepared in foreign language.

7. FX control agents shall not be entitled to request submission of documents not related to FX operations being conducted.

8. Authorized banks shall refuse to make payments and/or transfer money under FX operations in cases where person fails to submit documents required in accordance with the FX legislation of the Republic of Kazakhstan, submits inaccurate documents, or fails to perform actions established by the FX legislation of the Republic of Kazakhstan.

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*Footnote. Article 19 as amended by the Laws of the Republic of Kazakhstan dated 03.07.2019 No.262-VI (effective from 01.01.2020); dated 12.07.2023 No.23-VIII (effective from 01.01.2024).*

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

1. FX control bodies shall carry out FX control in relation to FX control entities in the form of inspections and other forms of control in accordance with the laws of the Republic of Kazakhstan.

2. With regard to financial organizations, inspections shall be carried out on the basis of risk assessment, unscheduled and documentary inspections by FX control body, and other forms of control.

With regard to other residents engaged in FX operations, as well as non-residents engaged in FX operations on the territory of the Republic of Kazakhstan, FX control procedures shall be carried out when they make payments and/or money transfers under FX operations, inspections by the FX control authority, and other forms of control.

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

1) inspecting premises and equipment of authorized organization for compliance with qualification requirements;

2) sending to FX control agent an instruction that is mandatory for execution for the purpose of proper implementation of FX control;

3) analyzing information, reports, and documents related to FX operations requested by FX control body in connection with receipt of information on possible violation of requirements of the FX legislation of the Republic of Kazakhstan, and other information (reports) submitted in accordance with requirements of the FX legislation of the Republic of Kazakhstan.

Other forms of control specified in subclauses 1) and 2) of part one of this clause shall be carried out exclusively by the National Bank of the Republic of Kazakhstan.

4. Procedures for exercising another form of control shall include:

1) visit and inspection of premises, inspection of equipment designed for exchange operations with cash foreign currency by authorized organization for compliance with qualification requirements within the framework of permissive control before issuance of license of the National Bank of the Republic of Kazakhstan for exchange operations with cash foreign currency and (or) annexes thereto. Visit and inspection shall be made on the basis of received application of legal entity for obtaining license of the National Bank of the Republic of Kazakhstan for exchange operations with cash foreign currency and (or) annexed thereto. Results of inspection shall be taken into account when making a decision on granting or refusing to grant license to legal entity by the National Bank of the Republic of Kazakhstan for exchange operations with cash foreign currency and (or) annexes thereto;

2) sending to FX control agent an order in the form of written request specifying the subject of the order and deadlines for its execution. FX control agent shall fulfill written order of the FX control authority by submitting the requested information and (or) documents in the form and within the timeframe specified in such order;

3) analysis by FX control authority of information, reports and documents submitted in accordance with the FX legislation of the Republic of Kazakhstan or at the request of FX control authority for compliance with requirements of the FX legislation of the Republic of Kazakhstan, including timeliness, completeness and reliability of the information, reports and documents received.

*Footnote. Article 20 as amended by the Laws of the Republic of Kazakhstan dated 03.07.2019 No.262-VI (effective from 01.01.2020); dated 12.07.2023 No.23-VIII (effective from 01.01.2024).*

### **Article 20-1. Special aspects of FX control on repatriation of national and (or) foreign currency on export or import by state revenue authority**

1. FX control over fulfillment of requirement of repatriation of national and (or) foreign currency on export or import by residents specified in clause 2 of Article 9 of this Law (the “inspected resident”) shall be carried out by the state revenue authority.

2. The state revenue authority, when carrying out FX control over fulfillment by inspected resident of requirement of repatriation of national and (or) foreign currency on export or import, shall conduct inspection and (or) carry out another form of control provided for by subclauses 3) of clause 3 of article 20 of this Law.

3. Inspection shall not require preparation of certificate.

Inspection shall be carried out without visiting the inspected resident by sending a written request for provision of information and (or) documents related to FX operations, including fulfillment of obligations under FX agreements on export or import.

Written request shall include:

1) name, surname, first name, patronymic (if any) of the inspected resident, business identification number or individual identification number, its location;

2) basis of inspection;

3) list of requested documents (copies thereof);

4) information (data) requiring explanations, if necessary;

6) deadline for providing requested information and (or) documents.

4. Inspection starts from sending a written request to the inspected resident, signed by authorized official of the state revenue authority.

Written request sent by one of the following methods shall be deemed to have been delivered to the inspected resident in the following cases:

1) by registered mail with notification - from the date of marking of the inspected resident in notification of postal operator;

2) electronically:

from the date of delivery of written request in web application. This method applies to the audited resident registered as a user of information system of the state revenue authority;

from the date of delivery of notification in personal profile of user on the web portal of “electronic government”. This method applies to the inspected resident registered on “e-government” web portal.

5. Requested information and (or) documents (copies thereof) shall be provided by the audited resident within the timeframe set forth in written request of the state revenue

authority, but not later than fifteen business days from the date following the date of receipt of written request by the inspected resident.

6. In order to clarify information and (or) documents (copies thereof) available in authorized bank servicing the inspected resident, the state revenue authority shall send written request to such bank with the use of another form of FX control, provided for by subclause 3) of clause 3 of article 20 of this Law.

7. Completion of inspection of the state revenue authority shall be the date of signing by authorized official of its opinion, which does not require signing by the inspected resident.

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*Footnote. Chapter 5 is supplemented by article 20-1 in accordance with the Law of the Republic of Kazakhstan dated 12.07.2023 No.23-VIII (effective from 01.01.2024).*

## **Article 21. Requirements for making payments and (or) money transfers on certain FX operations**

1. Payments and (or) money transfers of residents (except for authorized banks and branches (representative offices) of foreign organizations) on certain FX operations, which may be aimed at withdrawal of money from the Republic of Kazakhstan, evasion of requirements of the FX legislation of the Republic of Kazakhstan, shall be made by authorized banks in the manner prescribed by the rules of FX operations in the Republic of Kazakhstan, and upon submission by resident, who is sender of money or recipient of money, of permission to authorized bank for transfer of information on this payment and (or) money transfer to FX control and law enforcement authorities.

2. Types and criteria of certain FX operations, which may be aimed at withdrawal of money from the Republic of Kazakhstan, evasion from fulfillment of requirements of the FX legislation of the Republic of Kazakhstan, shall be established by rules of FX operations in the Republic of Kazakhstan.

*Footnote. Article 21 as amended by the Law of the Republic of Kazakhstan dated 12.07.2023 No.23-VIII (effective from 01.01.2024).*

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

1. FX control bodies in case of detection of violations of the FX legislation of the Republic of Kazakhstan by FX control entities shall be entitled to apply restrictive enforcement measures, supervisory response measures and sanctions provided for by the laws of the Republic of Kazakhstan.

2. In case of detection by the National Bank of the Republic of Kazakhstan of violations of the FX legislation of the Republic of Kazakhstan, the following shall be applied:

1) administrative penalties in accordance with the Code of the Republic of Kazakhstan on Administrative Offences, as well as requirements to eliminate identified violations shall be imposed on authorized banks;

2) administrative penalties in accordance with the Code of the Republic of Kazakhstan on Administrative Offences, supervisory response measures and sanctions in accordance with provisions of the Law of the Republic of Kazakhstan “On Banks and Banking Activities in the Republic of Kazakhstan” and other laws of the Republic of Kazakhstan with respect to authorized organizations;

3) restrictive enforcement measures in the form of written notification on elimination of detected violations, as well as administrative penalties in accordance with the Code of the Republic of Kazakhstan on Administrative Offences in respect of other residents not specified in subclauses 1) and 2) of this clause, as well as non-residents engaged in FX operations on the territory of the Republic of Kazakhstan.

3. Written notification of the National Bank of the Republic of Kazakhstan on elimination of detected violations shall be obligatory for fulfillment by entities specified in subclause 3) of clause 2 of this article within the deadline established in such notification.

Nonfulfillment of written notification of the National Bank of the Republic of Kazakhstan on elimination of detected violations shall be the basis for conducting an audit, including jointly with other FX control authorities within their competence.

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

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

1. Residents and non-residents engaged in FX operations on the territory of the Republic of Kazakhstan shall be entitled to:

- 1) read results of inspections conducted by FX control authorities;
- 2) appeal against actions of FX control authorities and agents in accordance with the procedure established by the legislation of the Republic of Kazakhstan;
- 3) exercise other rights provided for by the legislation of the Republic of Kazakhstan.

2. Residents and non-residents engaged in FX operations on the territory of the Republic of Kazakhstan shall undertake to:

- 1) submit to FX regulation and FX control authorities and FX control agents reports, information and documents on their FX operations in order to fulfill the requirements established by this Law and the FX legislation of the Republic of Kazakhstan;

2) submit to FX control authorities and agents information and requested documents related to FX operations within the timeframe set forth in the written request of FX control authority or regulatory legal instruments of the National Bank of the Republic of Kazakhstan;

3) provide FX control authorities with explanations in the course of their inspections and other forms of control, as well as on their results;

4) keep records and prepare reports on FX operations, ensuring that the reports are kept for the period established by the legislation of the Republic of Kazakhstan;

5) comply with requirements (instructions, orders, notices) of FX control authorities to eliminate identified violations;

6) provide FX control authorities with access to its premises, documents and automated databases during their inspections.

## **Chapter 6. SPECIAL FX REGIME**

### **Article 24. Special FX regime**

1. In cases of serious threats to stability of payment balance sheet, stability of internal FX market and economic security of the Republic of Kazakhstan, if the situation cannot be resolved by other measures of economic policy, the special FX regime shall be applied.

Special FX regime is a special regime of FX operations, providing for a set of FX regulation measures aimed at creating conditions for eliminating threats to the economic security of the Republic of Kazakhstan and stability of its financial system and allowing the introduction of certain FX restrictions on residents' and non-residents' operations related to the use of currency values.

Special FX regime is introduced by the instrument of the Government of the Republic of Kazakhstan on the basis of joint presentation by the National Bank of the Republic of Kazakhstan and relevant authorized bodies.

FX restrictions imposed under the special FX regime are temporary measures, are non-discriminatory in nature and are lifted as the circumstances that led to imposition thereof are eliminated.

Restrictions that may be imposed under the special FX regime shall include:

1) requirement to place a deposit in amount defined as a percentage of amount of FX operations for a fixed period of time in authorized bank or the National Bank of the Republic of Kazakhstan without payment of interest;

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

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

4) restrictions on use of accounts with foreign banks, establishment of FX revenue repayment period and limits on volume, quantity and currency of FX operations.

Other temporary FX restrictions may be introduced by the Government of the Republic of Kazakhstan on the basis of joint presentation by the National Bank of the Republic of Kazakhstan and relevant authorized bodies.

2. Requirements of the special FX regime may not limit fulfillment by residents of obligations to non-residents, which arise as a result of fulfillment by non-residents of obligations under FX agreements with residents before introduction of the special FX regime, as well as implementation by non-residents of transfers of dividends, interest and other income received on deposits and securities.

3. Permits and notifications established by the instrument of the Government of the Republic of Kazakhstan on introduction of the special FX regime shall not be subject to the Law of the Republic of Kazakhstan “On Permits and Notifications”.

4. The instrument of the Government of the Republic of Kazakhstan on introduction of the special FX regime shall contain:

1) list of measures to be introduced and temporary restrictions on operations related to the use of currency values;

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

3) time of introduction and duration of the special FX regime.

5. Term of validity of the special FX regime may not exceed one year.

Upon expiration of the term for which the special FX regime is introduced, such regime shall be considered canceled.

The Government of the Republic of Kazakhstan on the basis of joint presentation by the National Bank of the Republic of Kazakhstan and relevant authorized bodies shall be entitled to extend the special FX regime within the terms established by this clause, or to cancel it ahead of schedule in full or in part by issuing a relevant instrument.

6. During the period of validity of the special FX regime, residents and non-residents shall be obliged to comply with requirements established by the instrument of the Government of the Republic of Kazakhstan on introduction of the special FX regime.

## **Chapter 7. FINAL PROVISIONS**

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

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

### **Article 26. Procedure for putting this Law into effect**

1. This Law shall be put into effect from 1 July 2019, except for paragraph 7 of clause 3 of article 1, which shall be put into effect from 16 December 2020.

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

**President  
of the Republic of Kazakhstan**

**N. NAZARBAEV**