

## **On approval of Rules of forced restructuring of obligations of insolvent bank**

### *Unofficial translation*

Resolution of the Board of the National Bank of the Republic of Kazakhstan of October 29, 2018 No. 251. Registered with the Ministry of Justice of the Republic of Kazakhstan on November 29, 2018 No. 17823.

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In accordance with the Law of the Republic of Kazakhstan of August 31, 1995 "On Banks and Banking Activity in the Republic of Kazakhstan", the Board of the National Bank of the Republic of Kazakhstan RESOLVES:

1. To approve the enclosed Rules of forced restructuring of obligations of insolvent bank.
2. In accordance with the procedure established by the legislation of the Republic of Kazakhstan, the Department for Supervision of Banks (O.T. Kizatov), shall:
  - 1) together with the Legal Department (N.V. Sarsenova) provide the state registration of this resolution with the Ministry of Justice of the Republic of Kazakhstan;
  - 2) within ten calendar days from the date of state registration of this resolution, direct it in the Kazakh and Russian languages to the Republican State Enterprise with the Right of Economic Management "Republican Center of Legal Information" for official publication and inclusion in the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan;
  - 3) place this resolution on the official Internet resource of the National Bank of the Republic of Kazakhstan after its official publication;
  - 4) within ten working days after the state registration of this resolution, submit to the Legal Department the data on execution of the actions provided for by subparagraphs 2), 3) of this paragraph and paragraph 3 of this resolution.
3. The Directorate for the Protection of the Rights of Consumers of Financial Services and External Communications (A.L. Terentiev) shall direct its copy for official publication in periodicals within ten calendar days after the state registration of this resolution.
4. Control over the execution of this resolution shall be entrusted to the Deputy Chairman of the National Bank of the Republic of Kazakhstan O.A Smolyakov.
5. This resolution shall enter into force on January 1, 2019 and is subject to official publication.

*Chairman of the National Bank*

*D. Akishev*

Approved  
by Resolution No. 251  
of the Board

## **Chapter 1. General Provisions**

1. These Rules of forced restructuring of obligations of insolvent bank (hereinafter referred to as the Rules) are developed in accordance with the Law of the Republic of Kazakhstan dated August 31, 1995 on Banks and Banking Activity in the Republic of Kazakhstan (hereinafter referred to as the Law on Banks) and determine the procedure for the forced restructuring of obligations of insolvent bank, carried out by the authorized body on regulation, control and supervision of the financial market and financial organizations ( hereinafter - the authorized body).

2. Forced restructuring of obligations of insolvent bank is a package of measures for improvement of financial position of insolvent bank by applying to it one or more measures established by part two of paragraph 1 of article 61-10 of the Law on Banks.

3. Forced restructuring of obligations of insolvent bank is applied by the authorized body, in compliance with the principles provided for by paragraph 3 of Article 61-8 of the Law on Banks.

## **Chapter 2. Procedure for forced restructuring of obligations of insolvent bank**

4. Before resolving on forced restructuring of obligations of insolvent bank, the authorized body shall carry out assessment (analysis) of the financial and property condition of the insolvent bank, with a visit to it, including with the involvement of auditors, appraisers and other organizations.

5. When selecting the measures provided for by paragraph 1 of Article 61-10 of the Law on Banks, the authorized body, within the framework of forced restructuring of obligations of insolvent bank, shall analyze the expected financial results in respect of each of the indicated measures.

6. In order to notify depositors and creditors, debtors of insolvent bank, as well as other interested parties, an announcement of application to the insolvent bank of a measure to settle an insolvent bank in the form of forced restructuring of the obligations of insolvent bank shall be published in the manner provided for by part two of paragraph 8 of Article 61-8 of the Law within 5 (five) working days from the date of adoption by the authorized body of the decision on applying the indicated measure.

7. The authorized body shall develop the Plan of forced restructuring of obligations of the insolvent bank (hereinafter - the Plan) and send it to the insolvent bank or temporary administration of the bank management (interim manager) (in case of its (his) appointment by

the authorized body) no later than 10 (ten) working days from the date of adoption by the authorized body of the decision on application to the insolvent bank of a measure in the form of forced restructuring of obligations of insolvent bank.

8. The plan shall contain:

- 1) the obligations of the insolvent bank subject to restructuring;
- 2) the list of measures provided for by paragraph 1 of Article 61-10 of the Law on Banks;
- 3) conditions of restructuring of obligations of insolvent bank depending on the selected measure, with indication of the amount of write-off of obligations and (or) coefficient of converting of securities and other monetary commitments of the insolvent bank in its common shares, and (or) the changed terms and (or) interest rates for obligations of insolvent bank, including a temporary suspension of the execution of payments on servicing of obligations, by each line of creditors in accordance with paragraph 2 of Article 61-10 of the Law on Banks;
- 4) expected financial results from the conducted actions;
- 5) actions aimed at the implementation of measures provided for by paragraph 1 of Article 61-10 of the Law on Banks, and the timing of their implementation.

The plan developed for insolvent bank that is a member of a banking conglomerate, in addition to the information specified in part one of this item, shall contain the expected financial results of the forced restructuring of obligations of an insolvent bank to other members of the banking conglomerate.

9. The obligations of the insolvent bank to the creditors of one line shall be restructured simultaneously between the creditors of this line in proportion to the amounts of the obligations to be restructured. The restructuring of the insolvent bank's obligations to the creditors of the next line shall be carried out after restructuring of obligations of the insolvent bank of the previous line.

10. Upon receipt of the Plan, the insolvent bank or the interim administration for the bank management (temporary bank manager) (in the event of its (his) appointment by the authorized body) determines the responsible executors for each item of the Plan and proceeds to its implementation.

11. Information on the execution of measures provided for by the Plan shall be sent by the insolvent bank to the authorized body no later than the next working day after their execution.

12. In the event that, subsequent to the results of the undertaken measures provided for by the Plan, the insolvent bank eliminated the grounds for classifying it as insolvent, as indicated in paragraph 2 of Article 61-7 of the Law on Banks, and in the event that it observes the capital adequacy ratios, the authorized body shall resolve to exclude the said bank from the category of insolvent banks. At the same time, the restructured obligations of the insolvent bank, provided for by the Plan, shall be deemed fulfilled.

