

On some issues of establishing prohibition on the provision of preferential conditions to the persons tied with an insurance (reinsurance) organization, a branch of an insurance (reinsurance) organization - a non-resident of the Republic of Kazakhstan by special relations

Unofficial translation

Resolution of the Board of the National Bank of the Republic of Kazakhstan of October 29, 2018 No. 258. Registered with the Ministry of Justice of the Republic of Kazakhstan on November 29, 2018 No. 17826.

Unofficial translation

Footnote. The title is in the wording of the Resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market No. 28 dated 12.02.2021 (shall be enforced from the date of its first official publication).

In accordance with the Law of the Republic of Kazakhstan of December 18, 2000 "On Insurance Activity" (hereinafter - the Law), the Board of the National Bank of the Republic of Kazakhstan **RESOLVES**:

1. For the purposes of subparagraph 2) of paragraph 2 of Article 15-1 of the Law, the cost of the transaction or set of transactions of the insurance (reinsurance) organization (within the last twelve months) with the person tied with the insurance (reinsurance) organization by special relations exceeds 0.1 (zero whole one-tenth) percent of the equity capital of the insurance (reinsurance) organization as of the date of adoption by the insurance (reinsurance) organization of the decision on completing transaction or a set of transactions, or 2 (two) million tenge.

For the purposes of this paragraph the smallest of the indicated values shall be applied.

Calculation of the cost of a set of transactions is performed for the date of making of the last transaction, taking into account the cost of earlier made transactions.

2. For the purposes of part two of paragraph 2 of Article 15-1 of the Law, to establish the following additional criteria of reference of transactions to transactions with preferential terms:

1) the conclusion of the insurance (reinsurance) contract with the person tied with the insurance (reinsurance) organization by special relations, or in his interests, providing return of part of the received insurance premium to the insurer (reinsurer) in the absence of insured events;

2) repeated prolongation of payment due date of insurance premium or its part according to the insurance (reinsurance) contract, signed with the person tied with the insurance (reinsurance) organization by special relations;

3) remuneration payment to the insurance agent or insurance broker connected with the insurance (reinsurance) organization by special relations, in the amount higher than to other insurance agents or insurance brokers;

4) transfer of risks on reinsurance to the person connected with the insurance (reinsurance) organization by special relations under a reinsurance contract using reinsurance rate that is higher than for other reinsurers;

5) the conclusion of reinsurance contract with the person connected with the insurance (reinsurance) organization by special relations, under the terms of which the amount of reinsurance payment does not exceed the reinsurance premium.

3. For the purposes of subparagraph 5) of part one of paragraph 2-1 of Article 15-1 of the Law to establish the following signs of the connectedness of an individual or legal entity with an insurance (reinsurance) organization by special relations:

1) a person who was previously an affiliated person of an insurance (reinsurance) organization.

The requirement of this subparagraph shall be valid for twelve consecutive months after the person loses the signs of an affiliated person of an insurance (reinsurance) organization;

2) officials, executives and major participants of the legal entity, as well as this legal entity, whose employees jointly (directly or indirectly) own twenty or more percent (excluding preferred) shares of the insurance (reinsurance) organization;

3) an insurance broker whose more than 30 (thirty) percent of the total income for the last twelve months is received from an insurance (reinsurance) organization and (or) persons tied with it by special relations;

4) a person, the amount of a transaction or a set of transactions (during the last twelve months) with whom exceeds 50 (fifty) percent of the own capital of an insurance (reinsurance) organization.

For the purposes of this subparagraph, insurance (reinsurance) contracts shall not be taken into account;

5) a legal entity and its affiliated persons, if the amount of insurance (reinsurance) premiums under insurance (reinsurance) contracts concluded with them over the past twelve months is 20 (twenty) or more percent of the total volume of insurance premiums accrued by the insurance (reinsurance) organization under insurance (reinsurance) contracts during the last twelve months.

The requirement of this subparagraph shall apply to insurance (reinsurance) contracts in the voluntary form of insurance.

Calculation of the amount of insurance (reinsurance) premiums shall be carried out as of the date of conclusion of the last insurance (reinsurance) contract, taking into account previously concluded insurance (reinsurance) contracts;

6) an insurance agent of an insurance (reinsurance) organization or an insurance broker, if the amount of insurance (reinsurance) premiums received under insurance (reinsurance)

contracts during the last twelve months, concluded through the mediation of these persons, is 30 (thirty) or more percent of the total volume insurance premiums accrued under insurance (reinsurance) contracts that have entered into force within the last twelve months.

The requirement of this subparagraph shall apply to insurance (reinsurance) contracts in the voluntary form of insurance.

The calculation of the total amount of insurance premiums shall be carried out as of the date of conclusion of the last insurance (reinsurance) contract, taking into account previously concluded insurance (reinsurance) contracts.

For the purposes of recognizing persons tied with a branch of an insurance (reinsurance) organization-non-resident of the Republic of Kazakhstan by special relations:

an insurance (reinsurance) organization in subparagraph 2) of part one of this paragraph means an insurance (reinsurance) organization that is a non-resident of the Republic of Kazakhstan;

an insurance (reinsurance) organization in sub-paragraphs 1), 3), 5) and 6) of part one of this paragraph means a branch of an insurance (reinsurance) organization that is a non-resident of the Republic of Kazakhstan;

the own capital of an insurance (reinsurance) organization in subparagraph 4) of part one of this paragraph means assets accepted as a reserve to ensure the financial stability of a branch of an insurance (reinsurance) organization that is a non-resident of the Republic of Kazakhstan by an insurance (reinsurance) organization that is a non-resident of the Republic of Kazakhstan.

Footnote. Paragraph 3 is in the wording of the Resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market dated 12.02.2021 No. 28 (shall be enforced from the date of its first official publication).

4. For the purposes of part three of paragraph 2-1 of Article 15-1 of the Law, to identify the following other persons who are not acknowledged by persons connected with the insurance (reinsurance) organization by special relations:

- 1) National Chamber of Entrepreneurs of the Republic of Kazakhstan;
- 2) Joint-stock company "State Credit Bureau";
- 3) Joint stock company "Unified Accumulation Pension Fund";
- 4) The Public Association "Actuarial Society of Kazakhstan";
- 5) government agencies;
- 6) associations of legal entities operating in the financial market;

7) persons who are not recognized as affiliates in accordance with international treaties ratified by the Republic of Kazakhstan.

5. The requirements of this resolution apply to insurance holdings, except for the cases provided for in item 6 of Article 15-1 of the Law.

6. In accordance with the procedure established by the legislation of the Republic of Kazakhstan Department of Regulation of Non-Banking Financial Organizations (A. M. Kosherbaeva), 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 7 of this resolution.

7. The Financial Services Consumers’ Rights Protection and External Communication Division (A.L. Terentiev) shall direct its copy for official publication in periodicals within ten calendar days after the state registration of this resolution.

8. Control over the execution of this resolution shall be entrusted to the Deputy Chairman of the National Bank of the Republic of Kazakhstan Zh.B. Kurmanov.

9. This resolution shall enter into force on January 1, 2019 and is subject to official publication.

*Chairman
of the National Bank*

D. Akishev