

On approval of the Rules for application (establishment) of the conservation regime of second-tier banks

Unofficial translation

Resolution of the Board of the National Bank of the Republic of Kazakhstan dated January 31, 2019 No. 8. Registered in the Ministry of Justice of the Republic of Kazakhstan on February 12, 2019 No. 18291.

Unofficial translation

Pursuant to the Law of the Republic of Kazakhstan "On banks and banking activities in the Republic of Kazakhstan", the Board of the National Bank of the Republic of Kazakhstan **RESOLVES:**

Footnote. Preamble - as amended by the Resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market dated 27.12.2024 № 92 (effective ten calendar days after the date of its first official publication).

1. To approve the attached Rules for application (establishment) of the conservation regime for second-tier banks.
2. To declare as invalid the resolution of the Board of the National Bank of the Republic of Kazakhstan dated December 26, 2016 № 311 “On approval of the Rules for application (establishment) of the conservation regime of second-tier banks, the operation on simultaneous transfer of assets and liabilities of a bank in part or in full to another (other) bank (banks) by the temporary bank management administration (temporary manager of the bank) at the stage of conservation and approval by the authorized body of this operation, as well as the types of assets and liabilities, that are subject to transfer during the said operation” (registered in the Register of state registration of regulatory legal acts under № 14735, published on February 16, 2017 in the Reference Control Bank of regulatory legal acts of the Republic of Kazakhstan).
3. The Department of methodology of the financial market (Salimbaev D.N.) in the manner prescribed by the legislation of the Republic of Kazakhstan to ensure:
 - 1) together with the Legal Department (Sarsenova N.V.), the state registration of this resolution in the Ministry of Justice of the Republic of Kazakhstan;
 - 2) within ten calendar days from the date of the state registration of this resolution, its sending in the Kazakh and Russian languages to the Republican state enterprise on the basis of the right of economic management “Republican Legal Information Center” for official publication and inclusion in the Reference Control Bank of regulatory legal acts of the Republic of Kazakhstan;

3) placement of 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, the submission of information to the Legal Department on implementation of measures provided for in subparagraphs 2), 3) of this paragraph and paragraph 4 of this resolution.

4. The Directorate for protection of the rights of consumers of financial services and external communications (A.L. Terentyev) to ensure, within ten calendar days after the state registration of this resolution, the sending of its copy for official publication in periodicals.

5. Deputy Chairman of the National Bank of the Republic of Kazakhstan O. A. Smolyakova shall be authorized to oversee the execution of this resolution.

6. This resolution shall come into force ten calendar days after the day of its first official publication.

*Chairman of the
National Bank*

D. Akishev

Approved by the resolution of the
Board of the National Bank of the
Republic of Kazakhstan
dated January 31, 2019 № 8

Rules for application (establishment) of the conservation regime of second-tier banks Chapter 1. General provisions

1. These Rules for the application (establishment) of the conservation regime for second-tier banks (hereinafter referred to as the Rules) have been developed in pursuance of the Law of the Republic of Kazakhstan “On banks and banking activities in the Republic of Kazakhstan” (hereinafter referred to as the Law on banks) and determine the procedure for the application (establishment) of the conservation regime of second-tier banks (hereinafter referred to as the bank).

Footnote. Paragraph 1 as amended by the Resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market dated 27.12.2024 № 92 (effective ten calendar days after the date of its first official publication).

2. Conservation is a special regime for the management and activities of an insolvent bank, forcibly introduced by an authorized body for regulation, control and supervision of the financial market and financial organizations (hereinafter referred to as the authorized body) to establish control over an insolvent bank when implementing measures to settle an insolvent bank.

Chapter 2. Procedure for application (establishment) of the conservation regime of second-tier banks

3. The basis for application (establishment) of the bank conservation regime is the decision of the authorized body on the conservation of the bank.

The decision of the authorized body on the conservation of the bank contains the information provided for in paragraph 1 of Article 64 of the Law on Banks.

4. To implement the measures to settle an insolvent bank, the authorized body shall appoint a temporary bank management administration (temporary manager of a bank).

5. A copy of the decision of the authorized body on conservation of the bank shall be handed over against signature by inviting the first head of the bank (a person substituting him/her) to the authorized body on the day of its issuance, or sent to the bank via electronic, facsimile or other means of communication, or delivered personally by an employee of the authorized body at the location of the bank.

The first head of the bank (the person substituting him/her) shall transfer to the head of the temporary administration for managing the bank (temporary bank manager) the property of the bank, including all seals (if any), stamps, clichés and seals, keys, access codes, passwords, under the act of acceptance and transfer available for the purpose of access to information, documents related to the state registration of the bank in the justice authorities, original licenses issued to the bank, letterheads, electronic media, software, securities of other legal entities issued in documentary form, owned by the bank, as well as the documents to be stored in the bank in accordance with the Resolution of the Board of the National Bank of the Republic of Kazakhstan dated February 29, 2016 № 66 "On establishment of the List of main documents to be stored and the terms of their storage in second-tier banks, branches of non-resident banks of the Republic of Kazakhstan", registered in the Register of state registration of regulatory legal acts under № 13710.

Footnote. Paragraph 5 is in the wording of the Resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Development of Financial Market dated 13.12.2021 № 107 (shall be enforced upon expiry of ten calendar days after its first official publication).

6. If the bank employees or other persons acting on their behalf, by committing unlawful actions or inaction, create conditions under which the temporary bank management administration (temporary manager of a bank) is not able to fully or partially fulfill its functions, the temporary administration (temporary manager of a bank) draws up an act of obstruction.

The act of obstruction is drawn up on the day the fact of obstruction is established and signed by the head and members of the temporary bank management administration (temporary manager of a bank).

7. The temporary management administration of the bank (the temporary manager of the bank) on the day of drawing up the obstruction report shall send it to the authorized body for making a decision on initiating a case on an administrative offense under Article 462 of the Code of the Republic of Kazakhstan on Administrative Offenses.

A copy of the obstruction report, drawn up and signed by a member of the temporary administration in the region, shall be sent to the head of the temporary administration for managing the bank (the temporary manager of the bank).

Footnote. Paragraph 7 as amended by the Resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market dated 27.12.2024 № 92 (effective ten calendar days after the date of its first official publication).

8. The temporary bank management administration (temporary manager of the bank) after its appointment shall perform the following actions:

1) replace, if necessary, keys, locks of premises, buildings, gates, metal cabinets, safes, accessed with the use of special devices;

2) inform within 1 (one) working day from the date of appointment the registering bodies, central depository and stock exchange about the decision of the authorized body to conduct conservation in order to ban registration of transactions on alienation of the bank's property made by the non-temporary bank management administration (temporary manager of the bank), as well as on removal of encumbrance from the property the pledge holder of which is the bank;

3) within 1 (one) business day apply to the authorized body with a request to replace the keys and passwords used to protect electronic documents and access to the bank's automated systems;

4) within 3 (three) business days apply to the bodies that imposed the encumbrances with a request to remove the encumbrances from the bank's property on fulfilled obligations and from the property of which the bank is the pledgee;

5) within 3 (three) working days inform the banks in which there are bank accounts about the decision of the authorized body to conduct conservation with respect to the bank, about the execution of debit transactions on bank accounts only by the temporary bank management administration (temporary manager of the bank) and about the need to submit bank account statements;

6) within 3 (three) working days determine the group of persons bearing full financial liability, including persons who have access to the automated information system for accounting and preparation of financial and other reporting of the bank;

7) within 3 (three) business days, inspect cash desks, ATMs and other electronic terminals of the bank and its branches, representative offices and other subdivisions, checking all monetary and other valuables and documents therein, reconcile cash balances on bank accounts (including in foreign banks) with the bank's accounting data and draw up relevant acts;

8) within 3 (three) business days submit to the authorized body and banks, in which there are bank accounts, a new document with specimen signatures of the head of the temporary bank management administration (temporary bank manager);

9) within 3 (three) business days cancel powers of attorney, previously issued on behalf of the bank, also inform individuals and legal entities indicated in the powers of attorney;

10) within 10 (ten) working days develop and approve the plan of main actions of bank conservation on realization of measures on settlement of insolvent bank (hereinafter - conservation plan);

11) within 20 (twenty) working days conduct an inventory of all assets and liabilities of the bank reflected in the balance sheet, and the property of the bank recorded in balance sheet and off-balance accounts, including collateral, and title documents thereto, determine the actual balances on balance sheet and off-balance accounts. The term of inventory shall be extended taking into account the nature and scope of work with the consent of the authorized body.

The audit, inventory, acceptance-transfer of property, documents of the bank shall be conducted in accordance with paragraphs 38, 39, 40, 41, 42, 43, 44 and 46 of the Rules for the appointment and powers of the temporary administration (temporary administrator) of the bank, insurance (reinsurance) organization, approved by the Resolution of the Board of the National Bank of the Republic of Kazakhstan dated July 16, 2014 № 147, registered in the Register of State Registration of Regulatory Legal Acts under № 9711 (hereinafter - Rules № 147).

Property not reflected on the balance sheet shall be indicated in the inventory list and if necessary is subject to inclusion in the balance sheet at market value.

The appraisal of property identified during the inventory shall be carried out by an appraiser engaged in appraisal activities under the Law of the Republic of Kazakhstan “On Appraisal Activities in the Republic of Kazakhstan”.

An appraiser for appraisal of property identified in the course of inventory shall be selected through a tender, on the results of which the appraiser offering the most favorable conditions, including the fee amount for services rendered and timing of the appraisal shall be selected. The terms of the tender shall be determined by the head of the temporary bank management administration (temporary manager of the bank);

12) during its activity implement the sale of the bank's property in accordance with the civil legislation of the Republic of Kazakhstan;

13) during its activity optimize the bank's expenses in terms of reducing the remuneration of employees, including cancellation of all additional payments and benefits provided by the bank, with the exception of cases stipulated by the Social Code of the Republic of Kazakhstan ;

14) implement other activities within the framework of its powers established by the Law on Banks.

Footnote. Paragraph 8 as amended by the Resolution of the Board of the Agency of the Republic of Kazakhstan for Regulation and Development of the Financial Market dated 27.12.2024 № 92 (effective ten calendar days after the date of its first official publication).

9. The expenses of the temporary bank management administration (temporary manager of a bank) shall be made in accordance with the cost estimate of the temporary administration (temporary manager of a bank), approved by the head of the temporary bank management administration (temporary manager of a bank), in the form according to the appendix to the Rules (hereinafter - the cost estimate).

10. The cost estimate is compiled on the basis of the planned monthly costs in accordance with paragraphs 26, 27, 28, 32 and 33 of the Rules № 147 and is submitted to the authorized body with an explanatory note no later than 7 (seven) calendar days from the date of appointment of the temporary bank management administration (temporary manager of a bank). Subsequently, the cost estimate is submitted to the authorized body on a monthly basis no later than the seventh day of the month, preceding the planned period.

In a bank with a branch network, the head of the temporary bank management administration coordinates the activities of the departments of the temporary bank management administration in preparing cost estimates and ensures the formation of a consolidated cost estimate by expenses for departments of the temporary bank management administration.

11. Changes and additions to the approved cost estimate are made on the basis of the actual financial condition of the bank and taking into account the work performed by the temporary bank management administration (temporary manager of a bank). Changes and additions to the approved cost estimate are submitted to the authorized body within 3 (three) working days from the date of approval of the amendments and additions to the cost estimate.

If the expenses approved by the head of the temporary bank management administration (temporary manager of a bank) were not implemented in the previous period and there is a need for their implementation in the planning period, these expenses are included in the cost estimate for the next planning period.

Overspending on one item of expenses due to savings under another item is not carried out.

In order to save the bank's funds, the temporary bank management administration (temporary manager of a bank) takes measures to reduce costs.

Unforeseen expenses are the unplanned expenses of the temporary bank management administration (temporary manager of a bank) for urgent needs that are not provided for in the cost estimate, the amount of which does not exceed 1000 (one thousand) monthly calculation indices established by the law on the republican budget for the corresponding financial year.

The planned and incurred expenses are confirmed by the temporary bank management administration (temporary manager of a bank) by submitting agreements, invoices, checks and other supporting documents to the authorized body.

Control over the use of money provided for in the cost estimate is carried out by the authorized body.

12. The temporary bank management administration (temporary manager of a bank) within 7 (seven) working days from the date of its (his) appointment develops and approves a conservation plan indicating the timing of the main events for implementation of the measures to settle the insolvent bank, taking into account recommendations and instructions provided for in the decision of the authorized body on the conservation of the bank, and sends the approved conservation plan to the authorized body.

13. The temporary bank management administration (temporary manager of a bank) takes measures in accordance with the conservation plan and submits to the authorized body a report on the work done within 3 (three) working days from the date of completion of each event stipulated by the conservation plan.

14. The final report on completion of all events, stipulated by the conservation plan shall be submitted to the authorized body by the temporary bank management administration (temporary manager of a bank) within 5 (five) working days from the date of completion of the last event.

Appendix to the Rules for
application (establishment) of the
conservation regime of
second-tier banks

Form

"Approved"

The head of temporary bank
management administration
(temporary manager of a bank)

(signature)

" ____ " ____ 20 ____

Cost estimates of the temporary bank management administration (temporary manager of a bank)
for _____ **month** _____ **of year** _____
_____ **Name of the bank**

№	Name of expense items	Amount of planned expenses (thousand tenge)
1	2	3
1	Staff remuneration	
1.1	Remuneration of the head and members of the temporary bank management administration (temporary manager of a bank), as well as bank employees working on the basis of labor contracts	
1.1.1	Official salary	
1.1.2	Income tax	
1.1.3	Compulsory pension contributions	

1.2	Payment for services of persons working under contracts for the provision of services	
2	Deductions to the budget	
2.1	Taxes	
2.2	Payments to the budget	
3	Administrative expenses	
3.1	Services for the hire of vehicles for business and economic needs	
3.2	Communication services (telecommunication expenses, monthly fee for using telephone, telegraph, Internet, expenses for long-distance and international calls, postal and reference services)	
3.3	Services for security and signaling of buildings and structures (own and collateral property)	
3.4	Transport security services	
3.5	Services for parking of vehicles	
3.6	Transport registration services	
3.7	Services for technical inspection of transport	
3.8	Transport insurance services	
3.9	Utilities	
3.10	Work on maintenance, technical, service (inspection), dismantling of fixed assets and inventory held under the contract	
3.11	Premises for rent	
3.12	Services for state registration of rights to real estate	
3.13	Property valuation services	
3.14	Media publishing services	
3.15	Services for preparing the heating system for launch	
3.16	Plumbing work	
3.17	Property storage services	
3.18	Services for notarization and apostilization of documents	
3.19	Transportation, loading, unloading services	
3.20	Organization and tender services	
3.21	Collection services	
3.22	Expertise services	
3.23	Software maintenance services	

3.24	Document translation services	
3.25	Set, change, or transfer of phone number	
3.26	Services of the central depository in maintaining the system of registers of securities holders	
3.27	Services for scientific and technical processing of documents	
3.28	Bank account maintenance services, money transfers and payments made without opening a bank account	
3.29	Private bailiff services	
3.30	Compulsory accident insurance services for employees in the performance of their labor (official) duties	
3.31	Social Health Insurance Fund contributions	
4	Inventory acquisition costs	
4.1	Costs for maintaining office equipment in working condition	
4.2	Vehicle maintenance costs	
4.3	Costs for maintenance of premises	
4.4	Costs for purchase of paper and letterhead products	
4.5.	Costs for purchase of office supplies	
4.6	Cost of the purchase of fuels and lubricants	
5	Travel expenses	
6	Refunded expenses	
7	Costs of activities to implement measures to settle an insolvent bank	
8	Unexpected expenses	
Total per month		

Chief accountant _____
(surname, name, patronymic (if any) (signature)

Executor _____
(surname, name, patronymic (if any) (signature)

Phone number _____