



On the planned amendments to the Rules for implementation and monitoring of currency transactions in the Republic of Kazakhstan

August, 2023

We bring to your consideration a summary of the draft Resolution of the Board of the National Bank of the Republic of Kazakhstan ("NB RK") "On the Amendments to the Resolutions of the Board of the NB RK N^o40 as of 30 March 2019 "On Approval of the Rules of Implementation of Currency Transactions in the Republic of Kazakhstan" and N^o64 as of 10 April 2019 "On Approval of the Rules of Monitoring of Currency Transactions in the Republic of Kazakhstan" ("Resolution").

The draft Resolution was published on 25 July 2023 on the "Open NPA" portal for a public discussion, which will last until 8 August 2023.

- General provisions

The aim of the Resolution is to align the Rules of NB RK with the enacted Law of the Republic of Kazakhstan № 23-VIII as of 12 July 2023 "On the Amendments of Some Legislative Acts of the Republic of Kazakhstan Regarding the Return of Illegally Acquired Assets to the State".

- Withdrawal of money from the Republic of Kazakhstan and evasion of fulfilling the requirements of the currency legislation of the Republic of Kazakhstan

According to the planned amendments, the following currency transactions can be potentially considered as money withdrawal, as well as evasion from fulfilling the requirements of the currency legislation of the Republic of Kazakhstan ("Currency transactions"):

- 1) Financial loans, covering

- A non-resident providing money to a resident, or a resident having claims against a non-resident for a refund (save for an authorized bank), if the agreement does not provide for a money transfer to be done by a non-resident to a resident's bank accounts in authorized banks;
- A resident providing money to a non-resident, (i) who owns 10% or more of voting shares/votes of the members of a resident legal entity, or (ii) where a resident owns 10% or more of voting shares/votes of the members, or (iii) which, together with the resident, is under control of a third party, - if the terms of the relevant currency agreement do not provide for the remuneration for the use of the financial loan;

- 2) Import/export transactions, if the terms of the relevant currency agreement provide that the term for the fulfillment of obligations by a non-resident (i) to pay for exports, (ii) to supply goods (perform work, provide services)/return money, including advance payment or prepayment in full, exceeds 720 days from the date the resident fulfills the obligations;

- 3) Transfer of money by a resident in the amount exceeding 50,000 US dollars or equivalent (i) to own account abroad (ii) to a non-resident who is a professional securities market participant, conducting foreign exchange on behalf of clients, (iii) to a non-resident on a gratuitous basis;

- 4) Payments and/or money transfers carried out by one person per calendar month under two or more currency agreements with the same non-resident, for a total amount exceeding 50,000 US dollars or equivalent.

- Transactions which are not considered currency transactions:

The following loans and transactions are not considered currency transactions:

- 1) Financial loans occurring within trade or Islamic finance deals;
- 2) Transactions carried out by non-residents with their branches/representative offices in the Republic of Kazakhstan;
- 3) Transactions between branches/representative offices of foreign organizations in the Republic of Kazakhstan;
- 4) Intra-corporate money transfers carried out by the branches/representative offices of foreign non-financial organizations.

- Resident's obligations to provide information

When making a payment and/or transferring money as part of currency transactions, a resident must provide the authorized bank with the following:

- Permission to release information about the payment and/or money transfer to the currency control authorities and law enforcement agencies;
- Other documents and information, necessary for the bank to monitor and study the transaction in accordance with the requirements of the Law of the Republic of Kazakhstan "On Counteracting Legalization (Laundering) of Proceeds, Received Through Criminal Activity or Financing of Terrorism".

- Monitoring by an authorized bank

The bank shall monitor and study the transactions in accordance with the program for monitoring and studying client transactions, provided for by the rules of internal control, developed and adopted in accordance with the Law of the Republic of Kazakhstan "On Counteracting Legalization (Laundering) of Proceeds, Received Through Criminal Activity or Financing of Terrorism".

- The effective date of the Resolution

The Resolution will come into force on 1 January 2024.

Contact information:



Dinara Tanasheva
Partner, Tax & Law Services Leader for
Kazakhstan and Central Asia.

Tel.: +7 (727) 258 5960

E-mail: dinara.s.tanasheva@kz.ey.com



Gaukhar Kudaibergenova
Director, Tax & Law Services Department.

Tel.: +7 (727) 258 5960

E-mail: gaukhar.kudaibergenova@kz.ey.com

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