



BANKING & FINANCE

INDUSTRY AND LEGAL UPDATE

KALIKOVA & ASSOCIATES

Information for effective business solutions

Issue 5, December 2011 (quarterly)

Industry Update

Credit facility for enterprises has fallen to 5-6 per cent (1990s index) since 2005

Credit facility for enterprises has fallen to 5-6 per cent (1990s index) since 2005. 2012-2015 Industry Development Plan reports such data. As noted, bank credit facility share hasn't been more than 25 per cent of the 2005 amount of financing but later it fell to 5-6 per cent. The Plan authors mention the high cost of loans in the national market. The lack of finance leads to depreciation of equipment and productivity decrease and products' competitiveness. At present, the depreciation of fixed assets in the country (depending on industry) is 50-75 per cent.

A working commission over loan debtors affected by June 2010 events created in Kyrgyzstan

In Kyrgyzstan, a working commission is formed to deal with the situation around the bank borrowers affected by June 2010 events. The decision was taken at the joint session of the parliamentary committees on November 29, 2011.

The commission comprises the representatives of the National Bank, commercial banks, and members of the Parliament. It will work during 2 weeks. The commission has to present detailed information about each borrower.

Borrowers have questions as to what to do with judicial decisions on foreclosures. The members of the committee said that this process should be suspended the Commission renders the final decision.

7 Kyrgyz commercial banks are

Legal Update

Resolution of the NBKR Board from July 27, 2011 N 40 / 8 "On Amending Resolution of the NBKR Board from February 4, 2004 N 2 / 2" On Approval of the Instruction about conducting inspections on the ground" (the "Resolution")

In accordance with the new changed provisions input by the Resolution into the Instruction on conducting inspections on the ground from February 4, 2004 (hereafter - Instruction), Inspections will now additionally include the following:

- bank performance assessment requirements to ensure the security of the bank, established in legal acts of National Bank;
- cost-benefit analysis of isolated structural units of the bank;
- checking the legality of transactions involving the acquisition / disposal of shares, as well as compliance with the legislation process to increase / decrease the size of the share capital;
- validation of formation and maintenance of legal affairs with regards to the shareholders owning more than 1% of a bank's shares.

In addition, from now on, banks and financial institutions, which are conducting

dissolved

7 Kyrgyz commercial banks were dissolved on November 1, 2011. This was reported by the National Bank of the Kyrgyz Republic.

The following commercial banks are among the dissolved financial organizations: Bishkek AGB, Mercury JSB, Kurulush-Bank JSB, Kyrgyzdyikanbank SC, Adil JSB, Kyrgyzzagroprombank SC and AisaUniversalBank OJSC.

"Kyrgyz legislation provides for certain banking rules and their violation led to the dissolution of banks, explained in the National Bank. Besides, two banks (Ak Bank OJSC and Bishkek branch of Central Asian Cooperation and Development Bank CJSC) were deprived of licenses.

In Kyrgyzstan, the banks included in the deposit protection program will be marked by a special sign

In Kyrgyzstan, the banks included in the deposit protection program will be marked by a special sign, reported the Kyrgyz Deposit Protection Agency.

According to it, it launched and distributed among the banks the plates "Bank deposits are protected. Kyrgyz Republic". The deposit protection program" which will be placed at the entrance to all units of the member bank system, on the windows of operating cash offices, information stands, ATMs and other locations where a bank takes money, and on other data media for clients.

According to the Agency, this measure will form a positive attitude of depositors towards the deposit protection program, bank operations related to funds attraction and will increase public confidence.

the inspections required to provide:

- an electronic copy (backup files) of complete and accurate information from an automated banking system of the bank on any activities of the bank, including deposit, credit, billing, treasury activities, as well as on corporate securities for any given period, except for information about access codes (passwords, PIN codes) to users and customers to automated systems;
- electronic copies of complete and accurate information on all financial operations of the bank made through SWIFT, as well as other payment systems used by the bank, and affecting the correspondent accounts.
- to responsible members from a group of inspectors the access rights to automated banking systems with the ability to obtain information on all bank clients and their accounts, all accounts of the bank balance (reading, creation and printing of reports, without the right to conduct transactions.

According to the Resolution, the provisions of paragraph 4.3 of section 4 of the Instruction governing the process to facilitate inspections of the bank management and staff, have changed. Now, in order for the inspector to have access to the objects of checking, the presence of an authorized officer of the bank is required to the technical infrastructure (automated bank system, the system documentation, including documentation on the results of tests, databases, payment systems, including SWIFT) for the conduct of inspections, except for information about access codes (passwords, PIN codes) to users and customers to automated systems.

Resolution of the NBKR Board from July 27, 2011 N 40 / 7 "On Amending Resolution of the NBKR Board from March 2, 2006 N 5 / 7" On Approval of the Regulation "On licensing of

banks", registered in the Ministry of Justice from April 7, 2006 N 34-06 (the "Resolution")

In accordance with Resolution, the following amendments and additions to the Regulation "On licensing of banks," dated March 2, 2006 (hereinafter - Regulations), were made:

1. The Regulation regulates the opening of the "Islamic window" and the issuance of licenses for banking operations in accordance with Islamic principles of banking and finance in national and foreign currencies through "Islamic window".

Thus, for carrying out banking operations through "Islamic window", the bank must obtain a license to conduct banking transactions in accordance with Islamic principles of banking and finance. To open an "Islamic window", a bank, licensed NBKR must meet the following requirements:

- to be adequately capitalized in accordance with the requirements of the National Bank;
- not to have any restrictions on the conduct of banking operations in national and foreign currencies;
- to implement economic normatives and other requirements established by the National Bank;
- provided that in the past 12 months, the bank did not impose sanctions and interventions for systematic violations of banking laws.

To obtain licenses for conducting banking operations in national and / or foreign currencies through "Islamic window", the bank must provide the documents referred to in the Regulation.

The Term for review of documents for obtaining such license is no more than two calendar months from the moment of submission of documents that satisfy the requirements.

2. According to the Resolution, the Regulation was supplemented by the sections governing the order of the

banking institution by the restructuring of the bank, in the process of bankruptcy. These sections govern the provision and review of documents for obtaining prior authorization for the establishment of the bank, which is in the process of bankruptcy proceedings, by bank restructuring, the order of issuance of banking licenses to such bank, as well as the procedure for granting and review of documents by transferring the branches of the bank, which is in the process of bankruptcy, as bank branches, established by the restructuring method.

3. In accordance with new rules, the Regulation is designed to govern the position of the processes of transformation of microfinance companies (hereinafter - the MFC) and the microcredit company (hereinafter - the MCC) into a commercial bank, and the conversion of a traditional bank into an Islamic bank. The Regulation contains the following requirements for MFC and MCC, intending to transform itself into a bank:

- 1) have a legal form of the company;
- 2) on the date of application for conversion into a bank, to have a charter capital (previously formed and additionally paid-in capital) in the amount established by the National Bank for newly opened banks;
- 3) to operate as a microfinance institution for at least five years;
- 4) in the past two years, not to be the subject of any measures and sanctions imposed by the National Bank;
- 5) to perform at the date of application for conversion to the bank all prudential standards and other requirements established by the National Bank for existing banks;
- 6) Finally, to have an independent auditing company, confirming the reliability of financial reporting by MFC / MCC at the date of filing an application for a permit prior to obtaining banking licenses.

Regulation on the procedure for issuing a license to conduct exchange operations with cash foreign currency from July 27,

2011 N 40 / 4 (the “Regulation”)

Regulation establishes the procedure for issuing a license to conduct exchange operations with cash foreign currency in the Kyrgyz Republic (hereinafter - the KR), as well as the requirements for individuals and legal entities at the opening of exchange offices in the territory of the KR.

The Regulation does not apply to commercial banks and financial institutions licensed by the National Bank, carrying out exchange operations with cash foreign currency on the basis of a license.

The Regulation governs the procedure for obtaining a license to conduct exchange operations with cash foreign currency exchange and registration of the exchange office. Thus, according to the Regulation in order to obtain a license to conduct exchange operations with cash foreign currency and exchange letters on the registration office, the documents specified in the Regulations are submitted to the National Bank. The decision to grant or deny a license, as well as letters to the registration of exchange office shall be taken within 30 calendar days after receipt of all necessary documents.

According to the Regulation, the license is valid for three years. License effective date is the date of its issuance. The license is inalienable; the transfer it to others is prohibited.

The Regulation provides the conditions and order of functioning of exchange offices, as well as the grounds for refusal to issue a license. The Regulation is also intended to regulate the termination of the license and the order of application of preventive measures and sanctions, including revocation of license.



71 Erkindik Boulevard,

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Bishkek, 720040
Kyrgyz Republic

Tel.: +996 (312) 666060
Fax: +996 (312) 662788
Web: www.k-a.kg
Email: lawyer@k-a.kg

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If you have any comments, please contact Pamira Sainazarova at psainazarova@k-a.kg

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