



BANKING & FINANCE

INDUSTRY AND LEGAL UPDATE

KALIKOVA &
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law firm

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Industry Update

The World Bank's USD 3.95 ml. credit facility to be used to provide preferential loans to farmers

The World Bank issued to Kyrgyzstan a USD 3.95 ml. credit facility to be used to provide preferential loans to farmers.

According to Finance Minister Akyzbek Zhaparov, within its Agricultural Productivity Enhancement Project, the World Bank will issue a credit facility to be used to finance farmers and farmers' associations of the country.

The Ministry of Finance will offer financial institutions US dollar loans at 2% and Kyrgyz som loans at 6-8% per annum.

Preferential loans to farmers will be provided by Aiyl Bank, Bai Tushum & Partners microfinance company and Kyrgyzstan commercial bank at approximately 16% per annum for 5 years.

According to the Finance Minister, the project's total budget is USD 6.85 ml., of which USD 3.95 ml. will be used to finance the farmers. The credit facility will consist of two components: working capital loans and investment and leasing loans.

The establishment of the State Bank approved by Kyrgyz President

President Almazbek Atambayev signed the Law "On Kyrgyz State Development Bank" passed by the Parliament on June 29, 2012.

The Law defines the legal and institutional frameworks, the objectives of establishment and

Legal Update

Insider and affiliate trading policy of deposit taking microfinance companies dated July 4, 2012 (the "Policy")

The Policy sets forth the requirements for insider and affiliate trading activities of deposit taking microfinance companies (MFC).

According to the Policy, MFC's affiliates are:

- any individual (insider) or legal entity (except microfinance supervisory authorities within their limits of authority), which can directly or indirectly determine or influence the MFC's decisions, including under a contract (oral agreement) or any other transaction, as well as any individual (insider) or legal entity in whose respect the affiliate has such right;
- MFC's executive officers, its shareholders (members) or any entity holding five percent or more of its voting shares.

The Policy requires that any transaction between MFC and insider or affiliate should be approved by the MFC's Board of Directors. Moreover, according to the provisions of the Policy, MFC may not provide credits to insiders or affiliates if: the impartiality principle requirements are being violated; or MFC does not meet the maximum risk value per borrower requirement of the National Bank; or MFC does not comply with the minimum fully paid-up share capital or minimum equity capital requirement of the National Bank; or there are current losses as of the last reporting date.

The Policy sets forth mandatory requirements for MFC's insider or affiliate transactions. Thus, one of the requirements for loans to insiders or affiliates is that they should be secured by

activities of the State Development Bank.

The main purpose of the State Bank is to diversify and stimulate economic development by encouraging investment projects, including major national projects, on commercially reasonable terms.

The State Development Bank will be organized as an open joint stock company, with its sole shareholder being the Kyrgyz Government represented by the State Property Fund.

Kyrgyz National Bank to quarterly examine the funding sources of microfinance organizations and their loan rates

For the purposes of ensuring the MFOs reporting, namely the effective interest rates disclosure policies, microcredit companies and agencies are required to report on their financial performance to the National Bank starting from the third quarter of 2012.

Thus, in the past, microcredit companies were able to disclosure no information about the real estate accepted as collateral by simply indicating it as "other property." According to new requirements, MFAs and MFCs must explicitly state the real estate and assets taken from borrower to enforce their overdue loans.

The article governing the funding sources was also expanded. Henceforth, microcredit companies and agencies are required to disclose in detail how much money they borrow from Kyrgyz banks, international financial institutions and donors, and to report their obligations to government authorities.

These changes are necessary to strengthen control over microfinance and microcredit institutions' interest rates policies.

pledge of property (assets) net realizable value of which is not less than 120% of the loan amount, if collateral consists of Kyrgyz government securities or relevant deposit in a credit providing MFC, or not less than 140% of the loan amount, if collateral consists of any other property.

The Policy sets forth other requirements for MFS's insider or affiliate trading policy to prevent damages to MFC, its depositors or other creditors.

The commercial banks video surveillance system procedure of July 4, 2012 (the "Procedure")

This document defines the main guidelines for installation, modernization and development of video surveillance systems (VSS) in commercial banks (the "bank").

It specifically describes the main principles of VSS construction, general technical requirements for VSS components and general principles of installing video cameras in the objects.

The VSS's main goals and objectives are:

- a) to inform the bank's security units of illegal actions committed in respect of the bank's personnel, buildings, structures or assets;
- b) to keep prompt monitoring of the movement of vehicles in the bank's territory or adjoining area;
- c) to watch the video replay to view past events that occurred in the bank's territory and premises, in case of emergency.

It is recommended to install VSS in all bank facilities, except certain bank premises, which are occupied by the National Bank's audit team.

The Procedure sets forth general technical requirements for VSS, general technical requirements for VSS components, and describes the VSS processes. It also defines basic principles of VSS construction, and the general principles of installing video cameras in facilities.

Collateral management process for commercial banks and other financial and lending institutions

(bank/FLI), licensed and regulated by the National Bank of the Kyrgyz Republic, dated July 4, 2012 (the “Process”)

The Process contains minimum requirements for commercial banks and other financial and lending institutions ("banks/FLI") to enhance credit discipline and ensure the loan repayment. This regulatory act sets forth the way commercial banks/FLI should handle collateral. Thus, according to the Process, banks/FLI are forbidden from accepting the followings property as collateral:

- goods in circulation outside the Kyrgyz Republic, as the only collateral;
- low-rated securities issued by non-Kyrgyz resident companies and held by individuals and/or kept in depositories;
- assets registered and/or kept in offshore areas included in the list of the National Bank of the Kyrgyz Republic.

According to the Process, bank/FLI must analyze the state of the movable and immovable property market and define the quality criteria for accepting certain property as collateral. Further, bank/FLI must make sure that the collateral is physically available and verify its quality during the on-site visit.

When accepting a collateral, bank/FLI must evaluate this collateral to determine if the collateral value is enough to discharge the respective obligation of the borrower to bank/FLI.

Bank/FLI must be given an opportunity to control the collateral to ensure that it is maintained safely and securely for the duration of the loan agreement. Bank is responsible for regular monitoring of the collateral, including its inspection, checking its physical availability, verifying its quality and storage conditions, and determining whether the current value of the collateral is commensurate with the borrower's obligations to bank.



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