



BANKING & FINANCE

INDUSTRY AND LEGAL UPDATE

KALIKOVA & ASSOCIATES

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Industry Update

ABD to provide \$120 million to Kyrgyzstan in 2011-2012

Asian Development Bank plans to provide \$120 million facility to Kyrgyzstan in 2011-2012.

Director of the ADB Permanent Mission in the Kyrgyz Republic, Rie Hiraoka, expressed hopes for success of the establishment of the parliamentary form of governance in Kyrgyzstan and strengthening of stability in the country, and reiterated ADB's intention to continue the previously launched projects in the Kyrgyz Republic in the field of transport infrastructure, energy and education.

In addition, the head of the ADB's Mission noted the willingness of the international institute to implement in 2011-2012 the projects in the area of taxation, customs administration and public-private partnership.

Asian Development Bank to provide \$ 44.3 million to support energy sector of Kyrgyzstan

Asian Development Bank will provide \$ 44.3 million to support the energy sector of Kyrgyzstan, reported Askarbek Shadiev, Minister of Energy at the meeting of the Budget and Finance Committee of the Jogorku Kenesh.

According to him, the money will be used to increase the capacity of national power grids, to acquire necessary equipment to reduce commercial losses in the energy sector.

"\$16 million will be provided as loan, the rest as grants. This project involves co-financing from Kyrgyzstan also. The Government should allocate \$ 11 million", said Askarbek Shadiev.

The total cost of the project is \$56 million. It will be implemented in three phases, but will cover only

Company Update

K&A is recognized as one of the leaders of CIS legal market

K&A is recognized as one of the leaders of CIS legal market according to *Who's Who Legal* International Guide which annually conducts research of CIS region legal market. In 2011 K&A is ranked in top 4 among 9 international and local law firms of CIS as per the number of recommended lawyers/industries of practice right after Baker & McKenzie, Salans and Magisters. Within Banking & Finance, *Ulan Tilenbaev*, partner of the Firm, is mentioned as the lawyer who «provides sound legal advice to financial institutions» The guide also recommends senior lawyer of K&A, *Alexander Ahn* who «provides highly knowledgeable banking practice».

For your information: *Who's Who Legal* conducts researches in 30 spheres of the business law since 1996 and is the official partner of the International Bar Association. *Who's Who Legal* – the reliable source of information for the companies searching for confirmations of reliability of reputation of lawyers, recommended by other firms.

Legal Update

Instruction on handling suspicious banknotes and coins of national currency dated December 28, 2010 No. 95/4 (the "Instruction")

The Instruction defines tellers' procedures in banks and non-bank financial institutions (the "Credit institutions") in the cases when they detect suspicious currency banknotes/coins of the national currency during cash transactions with individuals and legal entities in the territory of the Kyrgyz Republic (the "KR").

the north of Kyrgyzstan.

Consumer lending in Kyrgyzstan

To date, only 19 commercial banks of Kyrgyzstan provide consumer credits to individuals.

Consumer credits are usually provided to finance the repair and construction of houses, purchase of durable goods, purchase of machinery, guided tours, weddings, etc.

The main currencies used for consumer credits by all commercial banks include Kyrgyz som, U.S. dollar, Euro.

Credits are provided by all banks in Kyrgyzstan for a period of 3 to 60 months depending on the variety of credit programs.

To date, the amount of credit that Kyrgyz banks may provide to borrowers in foreign currency varies between \$ 50 and \$ 150. A number of banks provide both cash and non-cash credits.

The review period for loan requests in commercial banks takes, in average, one or two business days, with the credits being disbursed on the third or fourth day.

All commercial banks secure their loans by pledge on real estate, cars, other highly marketable assets, goods in turnover, personal property.

EBRD to support banking and agricultural sectors in Kyrgyzstan

European Bank for Reconstruction and Development announced the launch of two projects in Kyrgyzstan, which are aimed at supporting the banking and agricultural sectors by providing finance in the local currency.

Kyrgyz Parliament endorsed amendments to the law "On National Bank of Kyrgyz Republic" in the first reading

On February 8, 2011 the Committee on Fiscal and Monetary Policy of the Jogorku Kenesh supported the draft resolution of the Law "On Amending the Law" On National Bank of Kyrgyz Republic ", which was approved by the Government Resolution dated January, 26 2011.

The draft revokes the licensing requirements for pawnshops by the National Bank of the Kyrgyz

According to the Instruction, suspicious banknotes/coins are those having a number of technical characteristics which raise doubts whether these banknotes/coins have been emitted by the National Bank of the KR. The suspicious banknotes/coins are acknowledged to be forged if upon the examination it is revealed that their technical specifications do not meet the technical specifications of genuine banknotes/coins.

The Instruction prescribes in detail what actions a teller must take when he receives cash from the client and recount cash in the Credit institutions.

The Instruction also regulates the procedure of examination of the suspicious banknotes/coins in the National Bank, and the actions to be taken in respect of the suspicious banknotes/coins after their examination.

Regulation on minimum requirements for arranging internal audit in commercial banks to prevent the financing of terrorism (extremism) and legalization (laundering) of criminal proceeds dated December 29, 2010 No. 96/2 (the "Regulation")

The Regulation defines minimum requirements for internal audit in commercial banks, including those carrying out activities in accordance with Islamic principles of banking and finance, and banks with Islamic window (the "banks") to prevent the financing of terrorism (extremism) and legalization (laundering) of criminal proceeds and other suspicious transactions.

According to the Regulation, internal audit is a set of measures, including development and implementation of policies, procedures and organization of activity to identify operations (transactions) subject to mandatory audit by the bank, and to prevent other operations (transactions) involving the funds or property directly related to financing of terrorism (extremism) and legalization (laundering) of criminal proceeds.

A suspicious operation (transaction) is an operation (transaction) involving the funds or other property that has no clear economic or obvious lawful purpose and is not a typical activity for legal and physical person (s) according to the list of indicators of suspicious transactions approved by an authorized government body in the sphere of combating the financing of terrorism (extremism) and legalization (laundering) of criminal proceeds.

Republic.

Kyrgyz Parliament endorsed the amendments to the "Law on National Bank of Kyrgyz Republic". Henceforth, the activities of pawnshops are excluded from the list of activities subject to compulsory licensing.

Over 18 years, National Bank of the Kyrgyz Republic issued 435 perpetual licenses to pawnshops

Since 1992, there were issued 435 licenses to pawnshops by the National Bank of the Kyrgyz Republic. The license fee was 300 soms.

The license for the operation of pawnshops has been canceled as a result of regulatory impact analysis of non-banking financial institutions.

Preconditions for the abolition of licensing of pawnshops were streamlining business regulation and small proportion of pawnshops in the amount of 0.6% of the total credit portfolio of non-banking financial institutions.

The Resolution of the Management Board of the National Bank of the Kyrgyz Republic "On amendments and additions to the resolution of the Management Board of the National Bank of the Kyrgyz Republic dated September 11, 2002 No. 37/2" On Regulation on establishment of micro-credit companies and agencies (hereinafter - "Resolution")

According to the provisions of the Regulation on the establishment of micro-credit companies and agencies dated October 25, 2002 (hereinafter - "Regulation"), the Regulation is amended to include the procedure for obtaining letters of consent from the National Bank to the registration in the Ministry of Justice ("Ministry") of micro-credit companies and agencies ("MCC/MCA").

So, in order to obtain such letter of consent, MCC/MCA should provide to the National Bank of the Kyrgyz Republic the documents referred to in section 2 of the Regulation. The National Bank of the Kyrgyz Republic will review the documents of MCC/MCA within 20 business days from the date of submitting the application by MCC/MCA and decide whether to grant or refuse the letter of consent.

The Regulation is also amended to include a section regulating the procedure for amending the Charter of MCC/MCA and performing state re-registration of MCC/MCA. Thus, in accordance with this section, changes or/and amendments to the Charter of MCC/MCA shall be subject to coordination with the National Bank in cases required by Kyrgyz law.

In case of making changes in the certificate of state registration, MCC/MCA shall renew the certificate of registration (change of name, location).

Resolution of the Management Board of the National Bank of the Kyrgyz Republic "On Amendments to legal acts of the National Bank of Kyrgyz Republic" dated December 16, 2010 No. 91/7 (the "Resolution")

According to the amendment, sanctions such as penalties and fines, may not apply to the bank, if the limit of open foreign exchange position has been violated due to a force majeure event.

In this case, in accordance with the Regulation, force majeure events include natural disasters

(floods, earthquakes, fires and other natural or manmade disasters), military conflicts, acts of terrorism, civil unrest and riots, and the publication of regulatory legal acts that restrict or prohibit the performance of any actions and affect the performance of bank prudential regulations defined by the National Bank of the Kyrgyz Republic.

In addition, during the period of receivership or conservatorship, the National Bank may consider imposing penalties or fines on the bank for failing to set limits on open foreign exchange position in all the circumstances that led to the violation of economic provisions. If the violation of limits on the open foreign exchange during the period of receivership or conservatorship of the bank as the result of the bank's activities before the introduction of receivership or conservatorship, collection of the fine from the bank can be postponed.

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www.akipress.kg, www.24.kg, www.parus.kg, www.kyrgyz-el.kg

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