

# KAZAKHSTAN STOCK EXCHANGE

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## Appendix R2

to Rules of Exchange  
Securities Trading

### Approved

by resolution No. 353 of the Directorate  
of the National Securities Commission  
of the Republic of Kazakhstan

of June 24, 1999

### Adopted

by the decision of Kazakhstan Stock  
Exchange members general meeting

(protocol No. 3 of June 7, 1999)

### Effective

from July 5, 1999

### NOTICE

Mentioned below Regulations in English have been translated by employees of Kazakhstan Stock Exchange for information purposes only. In case of any incompliance of this translation with Regulations original version in Russian, the latter prevails.

## REGULATIONS

### on Responsibility for Violation of Settlements Time Frames

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Almaty

1999

## LIST OF AMENDMENTS

### 1. Change No. 1:

- the decision made by Kazakhstan Stock Exchange categories "K", "P", "H" members meeting (protocol No. 2 of May 18, 2000);
- approved by resolution No. 621 of the Directorate of the National Securities Commission of the Republic of Kazakhstan of June 8, 2000;
- effective from July 1, 2000.

Used in these Regulations concepts mean the following:

"**Exchange**" – Kazakhstan Stock Exchange;

"**KCIS**" – the government enterprise "Kazakhstan Center of Interbank Settlements of the National Bank of the Republic of Kazakhstan";

"**Non-fulfillment**" – non-fulfillment, untimely fulfillment or incomplete fulfillment;

"**Payment**" – a payment of money in Kazakhstan tenge or delivery of the financial instrument in satisfaction of obligations, resulted from deals, concluded during exchange trades;

"**Payment time frames**" – established by the Exchange internal documents time frames of settlements on obligations resulted from deals, concluded during exchange trades;

"**Party**" – the Exchange or participant of trades executed by the Exchange;

"**Payment amount**" – payment of money in Kazakhstan tenge or the amount of the financial instrument delivery denominated in Kazakhstan tenge on the exchange deals prices, in satisfaction of which the delivery must be done.

## **Section I. NORMS OF ASSIGNMENT AND FORMS OF RESPONSIBILITIES**

### **Article 1. Norms of Responsibilities Assignment**

1. Finding of guilt of the party in violation of settlements time frames and assignment of responsibility for such violation is made by the Exchange Arbitral Commission.

2. Responsibility for violation of settlements time frames can be assigned only to the party, which did not fulfill the payment.

For action or inaction of other persons (including having the status of the trades' participant), caused violation of settlements time frames, responsibility is bared by that party, which acted on behalf of such persons or fulfilled payment through them.

3. The trades' participant recognized as the party at fault is responsible for non-fulfillment of own payment or the Exchange payments to other trades' participants, non-filled as a result of violation of settlements time frames to these trades' participants, regarding which amount is the most.
4. In case of finding of guilt of two and more parties, responsibility is distributed among them.

### **Article 2. Form of Responsibility**

1. The party found of guilt pays the penalty.
2. In case of significant or multiple violation of settlements time frame, the trades' participant, except imposing on him of the penalty payment obligation, can by the Exchange Council decision be excluded from the Exchange membership.

## **Section II. CALCULATION AND PAYMENT OF PENALTY**

### **Article 3. Calculation of Penalty**

1. Liable to collection the penalty amount is calculated by the Exchange Arbitral Commission.
2. The penalty is calculated as  $S \times P \times D$ , where:
  - S – the non-fulfilled payment amount determined in compliance with item 3 of article 1 of these Regulations;
  - P – 0.1%, except as otherwise provided by the Exchange internal document (*this paragraph was changed by the resolution of the*

*Directorate of the National Securities Commission of the Republic of Kazakhstan of June 8, 2000*);

D – the number of calendar days from the day of violation of settlements time frame (including this day) to the violation elimination day.

3. The penalty is calculated in Kazakhstan tenge.

**Article 4. Penalty Payment**

1. The penalty is paid in Kazakhstan tenge during three business days from the day of delivery by the Exchange Arbitral Commission of the appropriate decision, excluding the day of the decision making.
2. The penalty is paid by:
  - trades' participants – by transferring the penalty amount to the Exchange monetary account;
  - the Exchange – by transferring the penalty amount to the trades' participant bank account – the penalty amount beneficiary.
3. Received to the Exchange monetary account penalty imposed on trades' participants is transferred to their bank accounts during two business days.
4. Trades' participants having non-fulfilled obligations to the Exchange on the penalty payment, are not admitted to executed by the Exchange trades in all financial instruments until complete fulfillment of such obligations.

**Article 5. Limitation of Paid by the Exchange Penalty**

The amount of paid by the Exchange penalty is limited by commission fees amount, received from the exchange deals in financial instrument, payment on which was not fulfilled by the Exchange, for the period from the day of violation of settlements time frames to the penalty payment day.

**Section III. FORCE MAJEURE**

**Article 6. Force Majeure Concept**

1. The following circumstances mean the force majeure:
  - a) fire, earthquakes and other natural disasters, war, military actions, terrorist acts, civil commotions, strikes, lockouts, embargo, set by the government bodies prohibitions and restrictions;
  - b) breakage of the program and technical means of KCIS of Central Securities Depository (*this sub-item was changed by the Exchange Council decision of April 14, 2005*).
2. The document confirming the fact of force majeure mentioned in item 1(a) of this article and duration of their effect is the certificate of the Chamber of Commerce and Industry of the Republic of Kazakhstan or another competent body (organization) of the corresponding state;
3. The document confirming the fact of force majeure mentioned in item 1(b) of this article and duration of its effect is the certificate signed by the first chief executive of the corresponding organization out of mentioned in item 1 (b).
4. The certificate must be submitted to the Exchange during seven calendar days from the moment of occurrence of circumstances mentioned in item 1 (b).
5. The Exchange internal documents, regulating settlements on individual financial instruments, can establish the force majeure additional list.

**Article 7. Consequences of Force Majeure**

1. The parties are exempted from responsibility for violation of settlements time frames, if such violation was caused by force majeure occurred after execution of exchange trades and which could not be foreseen or prevented by parties.
2. The party, for which was created impossibility to implement payments due to force majeure, must immediately inform beneficiaries of these payments about occurrence of such circumstance, assumed time of its termination.
3. In case of occurrence of force majeure, settlements time frames are proportionally delayed to the time of such circumstances effect.

President

D. Karasaev