

No. 121-07/6670
November 14, 2019

Mr. Juan Pablo Bohoslavsky
UN Independent Expert

November 14, 2019

Subject: response to the request

Hereby the National Bank of the Kyrgyz Republic sending the response to your request according to the letter of the Ministry of Foreign Affairs of the Kyrgyz Republic dated October 25, 2019 No.14-025/13664 (Attachment 1).

Sincerely Yours,

Ainura Tezekbaeva
Deputy Chairman

1st question.

As you know, private individuals can provide money in the form of loans within the country or abroad, meanwhile possession of bonds of foreign countries by private individuals represents a risk of a loss of assets in case of a crisis in foreign markets. In addition, this practically means that capital moves from the country abroad, which creates certain risks for macroeconomic stability in the country, because of the effect of crowding out private investments, i.e. a part of household savings is spent on purchase of foreign government securities, instead of securities of domestic private firms, which could ensure the expansion of production and contribute to the economic growth. Conversely, if private individuals provide loans to other individuals or companies within the country, and these funds are used, for example, for development of a business and not for restructuring debt, then we can make an assumption about the possibility of a positive effect on the economy.

4th question.

The normative legal acts and measures taken by the National bank of the Kyrgyz Republic in the sphere of monetary policy in accordance to the law of the Kyrgyz Republic «On the National bank of the Kyrgyz Republic, banks and banking activities» are aimed towards achieving and maintaining price stability in the country.

In addition, bank services consumer protection itself, as well as analysis and improvement of its regulatory framework are the important areas of the National Bank activities.

The National Bank is constantly working on such issues as providing legal advisory services to consumers of financial services, personal audience with citizens, consultations by telephone, consideration of citizens' appeals. The work is organized in such a way that each appeal is solved in time and in objective way.

On June 22, 2017, the Law “On the National Bank of the Kyrgyz Republic, Banks and Banking Activity” entered into force. The law establishes the fundamental standards for financial services consumer protection and the minimum obligations of service providers, including the basic requirements for banking services and disclosure.

The legal acts of the National Bank also establish requirements aimed to protect the rights of financial and credit organizations' customers, ensuring compliance with the requirements for banking services and disclosure, establishing common requirements for contracts concluded with customers, responsible lending, the procedure for handling complaints and financial services' consumer claims.

However, these rules do not regulate issues related to the private debt of individuals. At the same time, the Civil Code of the Kyrgyz Republic provides a number of rules on regulation the relations associated with a private loan. The requirements are established for the form of the agreement, the procedure for establishing interest (the interest rate is set by agreement of the parties), and the consequences of breach of the contract by the borrower, the contestation of the loan agreement, and the requirements for ensuring the fulfillment of the borrower's obligations.

The Law of the Kyrgyz Republic, which regulates collateral issues, establishes requirements for the types of collateral, the procedure for pledging property, foreclosure on the subject of pledge and its implementation, as well as protection against encroachments on the rights to pledged property.

The Law “On the restriction of usurious activity in the Kyrgyz Republic” defines the basic principles of state policy in the area of restricting usurious activity in the Kyrgyz Republic and the legal basis for establishing restrictions. According to the Law, the state recognizes activity as usurious if the interest rates on the loan agreement exceed the "permissible maximum percentage".

The maximum permissible percentage is calculated based on the weighted average interest rate determined by the National Bank, to which 15 percent is added. Information on the size of the average weighted nominal rate for calculating the permissible maximum level of interest rates is posted on the official website of the National Bank (www.nbkr.kg) on a semi-annual basis.

In the case of borrower’s default if this borrowing is considered as usurious, collateral is taken from the borrower’s ownership only by judicial proceeding. When determining the borrower's monetary and / or material obligations, the amount of the penalty (fines) accrued for the entire period of the loan must not exceed 20 percent of the amount of the loan. If a loan agreement determines the rate less than the permissible maximum percentage, the court shall consider within the rate specified in the agreement/If the loan agreement determines the rate more than the permissible maximum percentage, the court shall consider only within the permissible maximum percentage.

This Law applies to the relationship between the lender and the borrower for non-performing loans that arose before the Law went into force.