

“Approved”

Financial Markets Supervisory Authority
of the Republic of Azerbaijan
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Acting Chairman of the Management Board

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Regulations on determining the mechanism for repayment of the principal part of loans of individuals in foreign currency increased in manat resulting from devaluation and accrued interest and penalties (fines) on that amount

1. General provisions

These Regulations have been developed for implementation of Items 3.1 and 7.3 of Decree#551 of the President of the Republic of Azerbaijan ‘on additional measures regarding solution of problem loans of individuals in the Republic of Azerbaijan’ dated 28 February 2019 (hereinafter – Decree), determine a mechanism (procedure) for repayment of the principal part of loans of individuals in foreign currency resulting from devaluation, discounts to be imposed on interest and fines (penalties) on that amount, as well as other issues related to credit debt restructuring.

2. Main definitions

2.1. Definitions used in these Regulations bear the following meanings:

2.1.1. **credit institution** – bank, a local branch of a foreign bank or non-bank credit institution (excluding credit unions);

2.1.2. **credit institution under liquidation** – bank, a local branch of a foreign bank or non-bank credit institution under liquidation (excluding credit unions);

2.1.3. **principal loan debt** – outstanding amount of money lent by the credit institution under the loan agreement;

2.1.4. **overdue loan** – debt where payments against the principal amount and/or interest accrued thereupon are delinquent for more than 360 calendar days as of 1 March 2019 on loan agreements signed with individuals from 1 January 2012 onward;

2.1.5. **overdue principal debt** – debt where repayment of principal amount is delinquent for more than 10 days as of 1 March 2019 on loan agreements with individuals;

2.1.6. **delinquency charge** – amount of money (fine, penalty) set by a contract, which the debtor must pay to a credit institution or to a credit institution under liquidation in case of non-performance or improper performance, and delay in performance of the obligation;

2.1.7. **restructuring** – issuance of preferential loans to individuals by a credit institution for the purpose of repayment of principal loan debts;

2.1.8. **individual** – a citizen of the Republic of Azerbaijan, a foreigner or a stateless person, including unincorporated individual entrepreneur, that enters into a loan agreement with the credit institution;

2.1.9. **recall of cases in court** – take measures in accordance with the requirements of the Code of Civil Procedure of the Republic of Azerbaijan and the Law of the Republic of Azerbaijan on Enforcement in connection with the waiver of lawsuits related to overdue loans and termination of proceedings on the execution;

2.1.10. **compensation** – amount paid to individuals at the expense of the state budget for the purpose of reimbursement by the state of the part of loans in foreign currency increased in manats as a result of devaluation by being assessed under the Decree;

2.1.11. **concession** – full or partial write-off of interest accrued on individuals' principal loan debts and delinquency charge according to the Decree and these Regulations;

2.1.12. **electronic portal** – an electronic database launched by the Financial Markets Supervisory Authority of the Republic of Azerbaijan (hereinafter – the FIMSA), that ensures online obtaining of information on compensation and restructuring by individuals and credit institutions going through the appropriate authentication;

2.1.13. **preferential loan** – loans to individuals by credit institutions to restructure their overdue loans with 1% annual interest rate and 5 year maturity (1 year grace period).

2.2. Other definitions used herein bear the meanings specified in the Law of the Republic of Azerbaijan on Banks.

3. Credit liabilities to be compensated and calculation of compensation amount

3.1. According to the Decree, the loans of individuals to be compensated should meet at least one of the following terms and conditions:

3.1.1. total outstanding amount of principal loan debt in foreign currency in balance and off-balance sheet accounts of all credit institutions and/or credit institutions under liquidation as of 21 February 2015 should not exceed USD10000 or equivalent at an exchange rate announced by the Central Bank of the Republic of Azerbaijan (hereinafter – the Central Bank) as of the date;

3.1.2. total outstanding amount of principal credit debt in foreign currency in balance and off-balance sheet accounts of credit institutions and/or credit institutions under liquidation as of 21 December 2015 should not exceed USD10000 or equivalent at an exchange rate announced by the Central Bank as of the date.

3.2. Compensation amount is calculated as follows:

3.2.1. with respect to principal credit debt provided for in sub item 3.1.1 herein:

1. Principal credit debts of individuals in foreign currency in balance and off-balance sheet accounts of all credit institutions and credit institutions under liquidation as of 21 February 2015 are determined in the USD equivalent according to the exchange rate announced by the Central Bank as of the date and summed;

2. Amount calculated according to Para 1, sub item 3.2.1 herein – AZN0,25/1USD.

3.2.2. with respect to principal credit debt provided for in sub item 3.1.2 herein:

1. Principal credit debts of individuals in foreign currency in balance and off-balance sheet accounts of all credit institutions and credit institutions under liquidation as of 21 December 2015 are determined in the USD equivalent according to the exchange rate announced by the Central Bank as of the date and summed;

2. Amount calculated according to Para 1, sub item 3.2.2 herein – AZN0,60/1USD.

3.2.3. with respect to foreign currency denominated principal credit debt as of 21 February and 21 December 2015, the compensation amounts calculated as per sub items 3.2.1 and 3.2.2 herein are summed.

3.3. In case the difference on an increased portion of individuals' foreign currency denominated principal debt resulting from devaluation (increased exchange rate difference) is covered by a credit institution or a credit institution under liquidation, the amount to be compensated at the expense of the state budget is decreased by the amount covered by the credit institution or credit institution under liquidation. A list of the individuals, as well as amount covered by the credit institution or the credit institution under liquidation is delivered to the FIMSA by the relevant credit institution, and with respect to the credit institution under liquidation by the person assigned liquidator functions.

4. Payment of compensation

4.1. To ensure payment of compensation the FIMSA defines total amount to be paid, a list of individuals to be compensated and the amount to be paid per individual according to Item 3.2 of the Decree and submits the information on the funds to be allocated per credit institution or the credit institution under liquidation to the Ministry of Finance of the Republic of Azerbaijan (hereinafter – the Ministry of Finance) and the Central Bank.

4.2. According to Item 4.1 herein the Ministry of Finance after receiving the information transfers the said funds to accounts of relevant credit institutions (excluding NBCIs) and the national operator of the postal communication with the Central Bank, as well as liquidation accounts of the banks under liquidation with the Central Bank. The compensation allocated for NBCIs, as well as the NBCIs under liquidation for payment of overdue loans is transferred to their accounts with the national operator of postal communication.

4.3. According to Section 2 of the Decree the compensation will be paid in the following sequence on the list defined by the FIMSA as per Item 4.1 herein:

4.3.1. compensation, in the first instance, is channeled to payment of individual's overdue principal credit debt before all credit institutions and credit institutions under liquidation proportionally;

4.3.2. after credit debts provided for in sub item 4.3.1 herein are repaid, the remaining amount is given to individual's disposal.

4.4. if it is identified that the individual repaid credit debts provided for in sub item 4.3.1 herein after 1 March 2019 (including 1 March 2019), the credit institution takes action on returning (giving to his/her disposal) the portion of the compensation channeled to repayment of the overdue principal debt to that individual within 5 (five) business days according to the Decree and these Regulations.

4.5. Payment of compensation to individuals who are bank customers is made by the relevant bank that issued the calculated credit.

4.6. Payment of compensation to customers of NBCIs or credit institutions under liquidation is made by means of the national operator of postal communication.

4.7. Banks and the national operator of postal communication transfer over AZN500 compensation amount to payment cards issued by them and opened in the name of the person to be compensated. AZN500 and below compensation is made by banks and the national operator of postal communication by means of money transfer (transfer of cash in favor of an individual without opening a bank account).

4.8. No commissioning fee is charged by the bank or the national operator of postal communication that provides payment of compensation for issue of the said payment card and operations made with the said payment card, as well as for money transfer.

4.9. Payment cards are issued for 1 year by banks and the national operator of postal communication.

4.10. For individuals appealed for compensation after the period specified in Item 4.9 herein expires payment cards for payment of the said compensation is issued in exchange for service fees of banks and the national operator of postal communication valid for the date.

5. Application of concessions on individuals' principal loan debts to be compensated

5.1. A credit institution determines the amount of interest and delinquency charge calculated as of 1 March 2019 on individual's principal debt to be compensated and informs the FIMSA accordingly as per Annex 1 herein.

5.2. A credit institution decides to waive the requirements of the credit institution on interest and delinquency charge as per Item 5.1 herein on individual's foreign currency denominated principal loans in the following amount:

5.2.1. according to the Decree, with respect to overdue principal to be restructured – accrued interest and delinquency charges are written off in full;

5.2.2. with respect to principal loans of individuals whose principal debt is repaid at the expense of compensation, but does not fall within the scope of credit debts to be restructured under the Decree on the balance sheet of the credit institution – interest debts are written off in accordance with the ratio of compensation to principal debt, while delinquency charges are written off in full;

5.2.3. with respect to principal loans of individuals whose principal debt is repaid at the expense of compensation, but does not fall within the scope of credit debts to be restructured under the Decree on the off-balance sheet of the credit institution – interest and delinquency charges are written off as follows:

1. if compensation is over 30% of outstanding principal amount – in full;
2. if compensation is below 30% of outstanding principal amount – not less than the ratio of the compensation to principal debt.

5.3. Credit institutions notify borrowers on benefits as per Item 5.2 herein (in writing or electronically (e-mail, SMS)) and submit a list of the persons to whom these benefits apply per month as per Annex 2 herein to the FIMSA.

6. Restructuring of overdue principal debt of individuals

6.1. According to the Decree, principal debt of individuals to be restructured by credit institutions should meet the following requirements:

6.1.1. relevant loan agreement between the individual and the credit institution on the issuance of that loan should be concluded from 1 January 2012 to 1 March 2019;

6.1.2. as of March 1, 2019, total balance of the principal debt of the individual (principal debt in balance and off-balance sheet accounts) in all credit institutions and credit institutions under liquidation should not be over AZN 17 000 or USD10 000 (in line with the exchange rate of the Central Bank as of 1 March 2019 USD10000 equivalent);

6.1.3. payment of principal and/or interest debts as of 1 March 2019 under individual loan agreements must be delinquent for more than 360 days.

6.2. After the principal loan to be compensated is reduced to the compensation amount, the remaining amount of the principal loan is restructured as per Part 6 herein.

6.3. To restructure the loan debt a new preferential loan is concluded between the individual and the credit institution.

6.4. The new preferential loan concluded between the individual and the credit institution should include at least the following:

6.4.1. the purpose of the loan is defined as repayment of the outstanding amount of the restructured credit debt;

6.4.2. maturity is set as 5 years (1 year grace period) and there is no requirement for the borrower to repay the principal debt during the grace period;

6.4.3. annual interest rate of the loan is set 1%;

6.4.4. the loan agreements is formalized in the national currency;

6.4.5. no commission is charged for formalization of the contract;

6.4.6. no additional fee is charged for premature repayment of the loan;

6.4.7. the ceiling of the delinquency charge set by the loan agreement should not be over 0.1% over 5 year maturity;

6.5. The loan agreement may not contain severer terms than those provided for in the loan agreement to which the restructured loan debt applies.

6.6. Based upon submitted information the FIMSA sets the amount of loans to be restructured per individual and the size of total loan portfolio of credit institutions to be restructured.

6.7. The FIMSA submits to the Central Bank and the Ministry of Finance information on total amount of loans to be issued by the Central Bank under government guarantee regarding loans to be restructured, and amount of loans to be allocated per credit institution.

6.8. According to Item 6.7 herein, based upon the information submitted by the FIMSA the Ministry of Finance provides issue of the government guarantee to the total amount of loans issued by the Central Bank according to Item 9.1 of the Decree. The Central Bank opens a credit line per credit institution to be paid in tranches under government guarantee.

6.9. Credit institutions offer individuals who have overdue loans to conclude a new preferential loan agreement in light of the requirements herein.

6.10. According to these Regulations credit institutions submit to the FIMSA the information on new preferential loan agreements concluded with individuals the second work day of every subsequent week as per Annex 3 herein.

6.11. According to Item 6.10 herein the FIMSA applies to the Central Bank within 5 working days after receiving the information on allocation of the next preferential loan with the government guarantee on the credit line opened to the credit institution.

6.12. After receiving the appeal as per Item 6.11 herein the Central Bank within 5 working days allocates a new preferential loan with government guarantee on the credit line opened for the credit institution and transfers to the account of the credit institution in question by documenting in accordance with the Laws of the Republic of Azerbaijan on Banks and on the Central Bank of the Republic of Azerbaijan.

6.13. The FIMSA submits the information on the currency position resulting from conversion of foreign currency denominated loans to national currency denominated loans to the Central Bank.

6.14. Taking into account the information submitted on the basis of Item 5.2 of the Decree and Item 6.13 herein the Central Bank gives USD denominated securities with 0.5% annual interest rates to banks upon their application. Those securities are acquired at the expense of the funds allocated for banks under Item 5.1 of the Decree.

6.15. Credit institutions terminate previous loan agreements on loan debts restructured under these Regulations and take actions to recall the cases in court.

6.16. Reception of appeals on signing new preferential loan agreements to restructure loan debts of individuals completes on 31 December 2019.

6.17. Individuals' overdue loans (extension of maturity, reduction or cancellation of interest, write-off of loss loans and others) at credit institutions under liquidation are restructured by persons entrusted with a liquidation function in light of the requirements herein.

7. Organization of the work with individuals

7.1. The FIMSA creates an electronic portal (hereinafter – Portal) to make information on compensation payments and restructuring available for individuals and credit institutions and allow them obtain those data in an online mode.

7.2. The Portal includes at least the following information per individual:

7.2.1. amount of compensation to be paid on credit debts with every credit institution and the credit institution under liquidation;

7.2.2. total amount of compensation to be paid from the state budget funds;

7.2.3. amount of compensation channeled to repayment of credit debts and the portion remained in individual's disposal according to sub items 4.3.1 and 4.3.2 herein;

7.2.4. information on principal credit debts on loans to be restructured and credit institutions that will restructure those credit debts.

7.3. Search for the information specified in Item 7.2 herein on the Portal is carried out by passing appropriate authentication based upon the information of individual's ID card.

7.4. The FIMSA allocates a space and staff to receive citizens and launches a hotline for work with those persons. The employees investigate and deliver to the Appeal Committee individuals' appeals arising from the Decree and these Regulations as per Item 8.5 herein.

7.5. Credit institutions allocate a space and staff to receive citizens (HQs, branch and department) for the work with those persons, launch a hotline, designate a relevant member of the Management Board or the head of the managerial body alone as a responsible person to coordinate the works and the FIMSA immediately notified accordingly.

7.6. The FIMSA delivers the list of individuals to be compensated with respect to NBCIs and credit institutions under liquidation (indicating individuals, compensation do be paid and the area where the credit institution he/she is the customer of is located) to the national operator of postal communication.

7.7. The national operator of postal communication delivers to the FIMSA the list of individuals to be compensated as per Items 4.7 and 7.6 herein.

7.8. According to Items 4.5-4.7 herein, banks and the national operator of postal communication that provides payment of compensations send the following information to individuals:

7.8.1. the amount of compensation to be paid to the individual;

7.8.2. information on the credit institution or the credit institution under liquidation (name, address and contact facilities) to the individual that he/she has a loan to be compensated;

7.8.3. information on the credit institution or the national operator of postal communication where the individual may receive a payment card the compensation is transferred to or money will be transferred as per Item 4.7 herein (name, address, contact facility of the credit institution, its branch, the national operator of postal communication and its division);

7.8.4. the date the payment card, where compensation will be paid, is ready or the money transfer will be made as per Item 4.7 herein;

7.8.5. information on the documents provided for in Items 7.11 and 7.12 herein.

7.9. Information specified in Item 7.8 is delivered to individuals via SMS, e-mail or in another form confirming receipt (submitted, delivered).

7.10. The credit institution ensures the following to organize restructuring:

7.10.1. delivery of notifications including at least the following information to individuals (SMS, e-mail and another form confirming receipt):

1. name, address, contact details of the credit institution (head office, branch) offering to conclude a new preferential loan agreement on restructuring the individual's loan debt;

2. information that an individual must bring an ID card to conclude a new loan debt restructuring agreement.

7.10.2. takes other measures arising from the Decree and these Regulations.

7.11. A payment card for compensation to an individual is issued on the basis of the following documents:

7.11.1. ID card;

7.11.2. documents confirming the right of inheritance in case of death of the person who has a payment card in his name and application is made by his heir (s).

7.12. When applying on behalf of an individual to obtain a payment card to which compensation is transferred or restructure a credit debt in accordance with these Regulations, the original of the document confirming the authority of the representative must be submitted along with the documents provided for in this Regulation.

8. Dispute resolution

8.1. The FIMSA establishes a work group and an Appeal Committee (hereinafter – the Committee) to review appeals related to application of the Decree and these Regulations and resolve arising disputes.

8.2. The work group reviews appeals by credit institutions and individuals regarding the application of the Decree and these Regulations. If the work group reveals the cases specified in Item 8.5 herein during review of appeals, the appeal is sent to the Committee.

8.3. The composition of the Committee is organized in odd number from among the FIMSA staff and approved by the Chairman of the Management Board.

8.4. Committee meetings are competent if more than half of its members are present. At Committee meetings decisions are taken by a simple majority of votes by open voting by one vote per member. Members are not allowed to abstain from voting (except as provided in Item 8.7 herein). In case of a tie, the chair of the meeting has the casting vote.

8.5. The Committee reviews the following issues and takes relevant decisions:

8.5.1. disputes related to compensation to be paid to individual and credit debts to be restructured;

8.5.2. disputes related to the list of individuals to be compensated;

8.5.3. other issues arising with respect to application of these Regulations.

8.6. The Committee reviews appeals and takes measures in accordance with the Law of the Republic of Azerbaijan on Civil Appeals.

8.7. Members of the commission do not participate in decision-making regarding their close relatives (spouses, parents, including spouse's parents, grandparents, children, adoptives (adopted), brothers and sisters).

8.8. If an individual is to be compensated and related information is not included to the list as per Item 4.1 herein or there is an error in the information, according to the Committee decision the FIMSA includes the individual's name to the list (corrects information) and takes measures to pay the compensation to the individual according to these Regulations.

9. Reporting

9.1. Information on payments that fall under sub items 4.3.1 and 4.3.2 herein is delivered to the FIMSA as per Annex 4 herein.

9.2. Information specified in Item 9.1 herein is delivered for each previous working day no later than 12:00 on the next working day.

10. Final provision

According to Item 7.3 of the Decree, other issues arising from these Regulations are settled by the FIMSA.