



INTEGRITES KAZAKHSTAN

CIS LAW FIRM

Kazakhstan in the spotlight

*Perspectives on the key trends and
legislation updates in Kazakhstan*

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1. New Law on Currency regulation and control

Entered into force on 1 July 2019:

- Expanding the statistical monitoring of currency transactions;
- Reducing the turnover of foreign currency on the territory of Kazakhstan.

Main changes:

- Branches (representative offices) of foreign non-financial organisations are recognized as residents of the Republic of Kazakhstan;
- Branches of foreign financial organisations that are entitled to carry out banking and (or) insurance activities in the Republic of Kazakhstan will also be assigned to residents of the Republic of Kazakhstan starting from 16 December 2020;
- Registration and notification regimes are replaced with accounting registration;
- A list of currency transactions potentially aimed at withdrawing money from the Republic of Kazakhstan is introduced.

2.1. Astana International Financial Centre (AIFC)

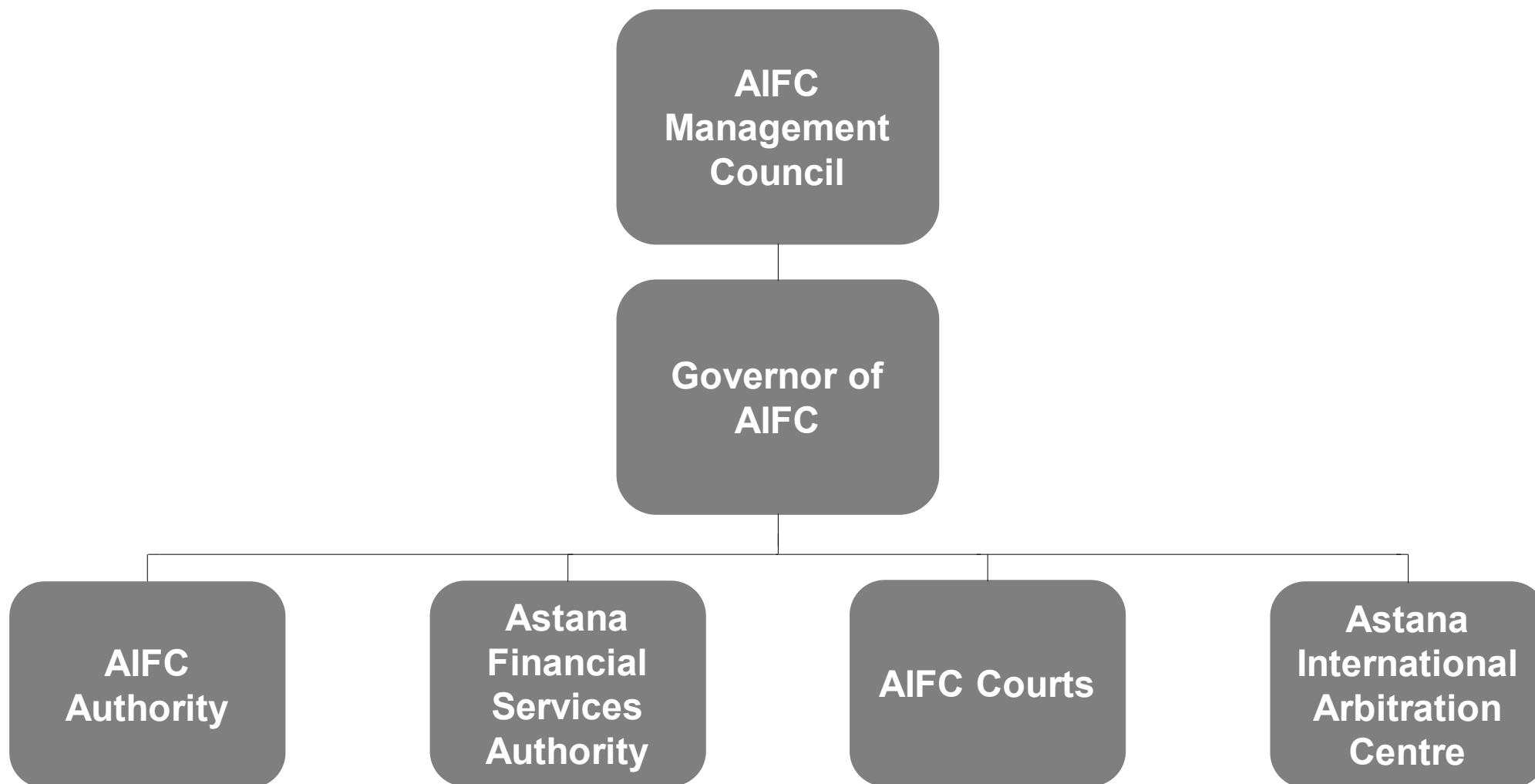
The AIFC Official Launch on 5 July 2018

Transport accessibility: regular and convenient air services between Nur-Sultan and leading international financial centres as well as rapid cargo shipping (China-Europe-China)

Special tax regime: exemption from payment of corporate, individual income, land tax and property tax for a period of 50 years

Simplified VISA regime: a visa-free regime will be provided for up to 30 days for OECD, UAE, Malaysian, Singaporean and Monaco citizens. Participants of the IFAC and their family members have the possibility of extending their visa regime to 5 years

2.2. Structure of AIFC



2.3. Acting Law of AIFC

Acting Law of the AIFC is based on the Constitution of the Republic of Kazakhstan and consists of:

- The Constitutional Statute 'On Astana International Financial Centre';
- AIFC Acts, which are not inconsistent with the Constitutional Statute and which may be based on the principles, legislation and precedents of the law of England and Wales and the standards of leading global financial centres, adopted by AIFC bodies relating to the relationship between AIFC participants, AIFC bodies, their employees, and employees of AIFC participants in the exercise of the powers given by the Constitutional Statute; and
- The Acting Law of the Republic of Kazakhstan, which applies in part to matters not governed by the Constitutional Statute.

2.4.1. Benefits of AIFC

Capital market:

- Well-balanced capital market;

Asset management:

- Funds available for management;
- Favourable tax climate;
- Economical and political stability;

Islamic finance:

- Favourable conditions for operation and development of Islamic financial institutions.





2.4.2. Benefits of AIFC

Fintech:

- Increased access to financial system and competition;
- Lower costs and improved risk management;
- Modern infrastructure, flexible regulations and investment promotion;

Private banking:

- Support to the development of private banking sector;

Green finance:

- Consideration of environmental factors and support for environmentally responsible investments;
- Development of low carbon technologies, projects, industries, and business.

2.5.1. AIFC Court

- The first common law court system in Eurasia;
- Separate and independent court from the courts of the Republic of Kazakhstan;
- Exclusive jurisdiction over civil and commercial disputes arising out of the activities and operations of the AIFC and in the case parties agree in writing to give the AIFC Court jurisdiction;
- Special fast track procedure for small claims up to the value of USD150,000;
- E-filing system to file cases electronically at the AIFC Court without being physically present in Nur-Sultan;
- No fees for filing claims.



2.5.2. AIFC Court's decisions

Art. 13.8 of the Constitutional Law of the Republic of Kazakhstan 'On Astana International Financial Centre':

'Execution of the decisions of AIFC Court in the Republic of Kazakhstan shall be carried out in the same manner and on the same terms as execution of the judicial acts of the courts of the Republic of Kazakhstan and translation of the decisions of AIFC Court into Kazakh and Russian languages shall be provided in the manner determined by the acts of AIFC'.



2.5.3. AIFC Court first decision (small claims court)

Aurora AG Limited (claimant) vs Star Asian Mining Company LLP (defendant)

The Claimant claimed sums due under a contract ('the Contract') entered into on 17 July 2018. By the terms of the Contract, the Claimant was engaged to carry out ground-based geophysical works for the Defendant in the East Kazakhstan. The Claimant's position was that it carried out the works but has not been paid by the Defendant.

Decision (executed): The court ordered the Defendant to pay the Claimant a sum of KZT44,885,081.15 or the equivalent in USD by 4 pm on 10 May 2019.

AIFC court jurisdiction is based on Clause 11.5 of the Contract:

'All disputes and disagreements that may arise between the Parties will be resolved through negotiations. Unresolved disputes will be resolved in the Court of the Astana International Financial Centre'.

2.6. International Arbitration Centre (IAC)

expeditious alternative to court litigation, operating to the highest international standards with its own panel of outstanding international arbitrators and mediators

Parties may agree for the IAC to:

- Administer their dispute according to the IAC Arbitration and Mediation Rules. These rules include procedures for expedited arbitrations, the appointment of emergency arbitrators, and resolution of investment treaty disputes;
- Administer their dispute according to UNCITRAL Arbitration Rules or ad hoc arbitration rules;
- Administer disputes according to the IAC Arbitration and Mediation Rules or ad hoc mediation rules;
- Provide other forms of alternative dispute resolution.

3.1. Establishment of the Financial Agency

On 1 January 2020 the National Bank transferred its mandate to regulate the financial market to a new independent body - Agency on Financial Market Supervision and Control (the 'Financial Agency').

Madina Abylkassymova was appointed as a **Chair** of the Financial Agency.

Objectives of the Financial Agency:

- Setting standards for financial institutions;
- Monitoring of the financial market and financial organisations;
- Financial market surveillance;
- Ensuring the completeness and accessibility of information for consumers on the activities of financial organisations.

3.2.1. Authority of the Financial Agency

The Law on its establishment was introduced on 5 July 2019 and pursuant to the Law Financial Agency:

- Establishes a limit of shares (stakes in the charter capital) of the parent organisation of the bank conglomerate, bank or bank holding company owned by subsidiaries of the bank or bank holding company, organisations in which the bank or bank holding company have a significant share in the capital;
- Issues a permit for voluntary reorganisation, liquidation;
- Issues an approval to acquire the status of a major participant;
- Makes a decision on suspension, renewal or revocation of a licence;
- Decides to classify the bank as insolvent bank and to exclude the bank from the list of insolvent banks;

3.2.2. Authority of the Financial Agency

- Makes a decision on introducing a bank conservation regime, introducing a moratorium on satisfying the requirements of bank depositors and creditors, applying measures to settle the insolvent bank, and preserving insurance (reinsurance) organisations;
- Decides on creation and financing of a stabilisation bank;
- Invites the Government to consider the possibility of the acquisition by the Government of the Republic of Kazakhstan or the national managing holding of the declared shares of the bank in the amount necessary to improve its financial condition and fulfill the bank's prudential standards and (or) other mandatory norms and limits;
- Makes a decision on the forced redemption of the bank's shares subject to their mandatory subsequent immediate sale at the acquisition price to a new investor, guaranteeing the necessary improvement in the financial position of the bank (in case the bank has a negative amount of capital);
- Decides on the recognition of financial market assets as securities.

3.3. Decisions of the Financial Agency

The Financial Agency makes a decision on the issuance (refusal to issue) or withdrawal of permission to:

- Opening banks;
- Starting insurance (reinsurance) organisations;
- Opening and acquisition of a subsidiary by banks and (or) bank holding companies;
- Opening or acquisition by banks of a subsidiary acquiring doubtful and hopeless assets of a parent bank;
- Significant participation of the bank and (or) bank holding company in the capital of organisations;
- Opening or acquisition of a subsidiary by an insurance (reinsurance) company and insurance holding;
- Significant participation of the insurance (reinsurance) company and (or) insurance holding company in the capital of organisations.

4.1. New business opportunities: Oil and Gas

Kazakhstan's oil production plan for 2019 – 89 mln tons (as of November 2019 – 82.5 mln tons).

➤ Tengiz

TCO's FGP-WPMP is the next major expansion of the Tengiz field. It is a landmark project that will help to:

- ✓ increase Tengiz production by 12 million tons of oil per year; and
- ✓ maintain full production rates at the existing Tengiz facilities.

Budget to expand the field – USD45.2 bln.



➤ Kashagan

- ✓ One of the world's biggest deposits
- ✓ Started in 2017 – expected peak in 2030s
 - expected 450k B/D in three years;
 - June 2019 – 400k B/D.

Budget – USD50 bln.



4.2. New business opportunities: Oil and Gas

➤ Karachaganak

- 61% of all oil production in Kazakhstan;
- 3 May 2019 – partners signed the agreement sanctioning the Fourth Injection Compressor Project;
- next 5 years – will be invested USD5 bln.



➤ Royal Dutch Shell abandoned two oil projects off Kazakhstan:

- Khazar project (USD900 mln invested);
- Kalamkas-Sea project.

The main reason: high costs made the projects uneconomic.

Shell 'the projects were not competitive enough versus other opportunities.'

4.3. New opportunities: Renewable energy

As of October 2019 – 81 projects in Kazakhstan

Current situation:

2013 – >1%

2019 – 1.3%

Future targets:

2020 – 3%

2030 – 30%

2050 – 50%

Agreements and regulation of renewable energy projects:

- Loans;
- Power Purchase Agreement with Financial Settlement Center for 15 years;
- Project Support Agreement;
- EPC;
- Security.





4.4. New opportunities: Renewable energy players

1	Solarnet Investment GmbH (Germany) and GOLDBECK Solar GmbH (Germany)
2	Solarnet Investment GmbH (Germany)
3	Hydroenergy Company JSC (Bulgaria)
4	Risen Energy Co Ltd (China)
5	Total EREN SA (France) (majority) and Access Infra Central Asia Ltd. (UAE)
6	Total EREN SA (France)
7	ACME Cleantech Solutions Private Limited (India)

8	Urbasolar (France)
9	Shell Kazakhstan B.V. Branch (Netherlands)
10	JinkoSolar Holding Co Ltd (China) and JV between UG Energy Ltd (United Kingdom) and Samruk-Kazyna Invest
11	Eni (Italy) and General Electric (USA)
12	Universal Energy (China)
13	Green Climate Fund and EBRD
14	National company Kazatomprom and Energy Asia (BVI) Limited (Japan)

15	SAP-Japan Corporation (Japan), UrAsia London Limited (British Virgin Islands) and National company Kazatomprom
16	Wind Power GmbH (Germany)
17	MISTRAL ENERGY PTE. LTD (Singapore)
18	Hevel Solar (Russia)
19	DERA GmbH (Germany)
20	United Green (United Kingdom)
21	PowerChina Chengdu Engineering Co. Ltd (China) and China Power International Development Ltd (China)

4.5. New opportunities: Belt & Road Initiative

Belt & Road Initiative (BRI) – over USD1 trillion

First announcement in 2013

Cooperation in current projects:

- Sino-Kazakh (Lianyungang) logistics cooperation base;
- Construction of the land port of the Khorgos-DongDaMen Special Economic Zone;
- Railway route ‘Kazakhstan - Turkmenistan – Iran’;
- Aktau Port on the Caspian Sea;
- The international transit corridor Western Europe – Western China.

Main Challenges:

- Merger Clearance (economic concentration);
- Licensing;
- Work permits and working visas;
- Environmental issues;
- Priority and preemptive rights of State (oil & gas, mining spheres);
- Anti-corruption policies;
- Tax (optimization);
- National currency devaluation risks;
- National security issues.



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THANK YOU FOR YOUR ATTENTION!



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