

The Pragma Corporation
Financial Sector Initiative
Thirteenth Quarterly Report
For the Period
August 22, 2003 – November 21, 2003

For the
U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

GENERAL INFORMATION

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ALMATY, KAZAKHSTAN

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A. PROJECT OVERVIEW

I. PROJECT DESCRIPTION

The Pragma Team works with the Kazakhstan Stock Exchange (KASE), the National Bank of Kazakhstan (NBK), the Pension Regulatory Body/State Accumulation Pension Fund (SAPF), the Ministry of Labor and Social Protection, Ministry of Finance, pension fund asset managers, banks, and broker/dealers to implement the Financial Sector Initiative Project.

In September 2001, Mr. Rick Gurley, the CTO for the USAID/CAR Mission, approved the Work Plan that set forth the priorities of the Project *through its completion date*. In August, 2002 Dr. Lewis Tatem became the new CTO of FSI. During the eighth quarterly review, Dr. Tatum approved FSI's work plan through the remainder of the first option exercise, August 2003. In July, 2003 FSI reviewed its activities and received notification that USAID would exercise its option to have FSI continue. In late August, FSI and USAID mutually agreed on revised expected results. The updated work plan that reflects these revised expected results (for completion during the remaining six quarters) will be presented to FSI's CTO for approval during FSI's quarterly review (12th & 13th) in December 2003. The approved work plan will be reflected in the 14th quarterly report.

The priorities of the Project for this period are noted by component in the boxes below.

The project update for this quarterly report will correspond to the activities set forth in the action plan described below and reported by component.

II. SIGNIFICANT EVENTS AND ACHIEVEMENTS

- € MARCHENKO NAMED CENTRAL BANKER OF THE YEAR
- € MARCHENKO APPROVES FSI SECURITIZATION INITIATIVE
- € ASSESSMENT OF REGISTRATION CENTERS COMPLETED
- € INSURERS VOTE TO REGISTER ASSOCIATION
- € NBK REQUESTS ASSISTANCE FROM INSURANCE SUPERVISION DEPARTMENT
- € PRAGMA BEGINS VALUATION OF STATE ACCUMULATION PENSION FUND
- € *CREDIT RISK INTERNATIONAL (LONDON)* AND SEVERAL KAZAKHSTANI MAGAZINES FEATURE PRAGMA'S ARTICLE "KAZAKHSTAN PREPARES ITSELF FOR FIRST CREDIT REPORTING SYSTEM."

- € NBK AGREES TO DELINK PASSAGE OF CREDIT BUREAU LAW FROM EFFORTS TO ESTABLISH A PRIVATE CREDIT BUREAU – SUBJECT TO LEGAL OPINION WHICH PRAGMA IS PREPARING.
- € PRAGMA PRESENTS FSI TO INTERNATIONAL CONGRESS OF ECONOMISTS
- € PRAGMA CONDUCTS ANNUAL TEAM BUILDING EXERCISE
- € COP MEETS EX - IM BANK CHAIRMAN AND STAFF

III. PROJECT EXECUTIVE SUMMARY

This Report provides details on the events and activities summarized below, as well as other events and activities regarding the USAID Financial Sector Initiative, as implemented by consultants for The Pragma Corporation (the Project), for the period from August 22, 2003 through November 21, 2003. The report is comprised of four components: Financial Instruments, Pension/Insurance, Mortgage, and Credit Bureau /Credit Rating Agency. Each component section of the report will have a summary with specific activity tasks identified and the status of each task with appropriate commentary, relevant attachments, and reference to administrative issues, if any.

Financial Instruments

In September, Pragma/FSI presented a brief to the National Bank explaining the concept of securitization, reviewing its use in various national and international contexts, and summarizing a proposal to make securitization practicable in Kazakhstan. Pragma's proposal contained two components: (1) a legal component which would, under the auspices of a Working Group established by NBK, develop the legal basis for securitization, including a stand-alone Law on Securitization; and (2) a financial component which would, simultaneously with the development of the legal basis, structure two pilot securitization projects. While the two securitization projects were not specifically named in the proposal, there are several candidates for securitization projects, including Temir Zholi (a rolling stock lease-back securitization) and the oblast of West Kazakhstan (a social obligations securitization). The chairman of NBK, Grigori Marchenko, approved Pragma's proposal within days of its submission. Several new financial instruments are being developed that involve asset securitization.

By the end of the quarter under review, cumulative corporate bond issuance in Kazakhstan stood at \$951 million, poised to surpass the benchmark of \$1 billion of cumulative issuance this year. Mortgage-backed securities from the Kazakhstan Mortgage Company account for more than \$50 million, or 16 percent, of issues placed so far this year. Currently, the weighted average maturity of outstanding corporate bonds is 5.7 years and the weighted average yield to maturity (YTM) 7.4 percent per annum.

Insurance/Pension

After a series of informal meetings during the summer at which insurers and other members of Kazakhstan's insurance industry discussed the pros and cons of establishing an association of insurers, participants met in October and voted officially in favor of registering such an entity

with the Ministry of Justice. Pragma assisted the founders in drawing up the required registration documents.

Also during the quarter, the Department of Insurance Supervision asked FSI to assess the state of insurance regulations and to measure their compliance with EU standards especially as it relates to life insurance. FSI has drafted a scope of work and is actively soliciting a response from several potential sub-contractors to complete the assignment.

In September, the Government of Kazakhstan reiterated its interest in privatizing the State Accumulation Pension Fund. In response to the statement, the National Bank of Kazakhstan changed the prudential norms, which had governed the SAPF's investment policies since its inception, to those which now govern the investment policies of private pension funds. At the direction of the National Bank, the management of SAPF also approached Pragma with a request to value the fund for sale. The Government will take the decision to privatize SAPF in the first quarter of 2004, and Pragma's valuation will provide the government with an independent, third party assessment of SAPF's value as an ongoing concern. Potential buyers, whether domestic or international, will in the course of their due diligence undertake their own valuations.

Mortgage

The Kazakhstan Mortgage Guarantee Fund (KMGF) continued its organizational activity procuring office space, hiring staff and purchasing equipment. The Fund also continued preparing its legal guidelines in cooperation with Pragma's legal staff and refining insurance products for ultimate sale. Pragma consultants also prepared a briefing memorandum for Governor Marchenko that addressed the risk weighting that should be given for mortgages using KMGF guarantees for bank regulatory capital purposes and reviewed operational assumptions in the business plan.

Residential mortgage origination during this quarterly period has accumulated to approximately \$218 million, an increase of approximately \$55 million over the previous quarter. The successful placement of KMC's MBS has encouraged banks to make more mortgages. Now that the KMC has achieved Agency status, income to investors is tax-free. Banks are secure in the knowledge that the KMC can purchase and place all the mortgages they originate. The KMC is planning to conduct bi-weekly auctions for the purpose of ensuring predictability to investors and maintaining sufficient liquidity for the purchase of new mortgages.

An assessment of conditions in Kazakhstan that would allow the introduction of title insurance was completed by Robert Cemovich and Walter Coles, consultants with Stewart Title based in Houston. In his conclusions, Cemovich states that a title insurance industry is about to emerge in Kazakhstan. Further, he states that no reserve or guarantee funds are in place. Title Insurance should be regarded as a guaranty and not insurance. He recommends hosting a two-day conference on title insurance, involving representatives of the Ministry of Justice, National Bank, KMC, Centers for Real Estate Registration, National Agency for Land Resource Management and interested insurance companies, mortgage companies, banks, real estate professionals, notaries and lawyers. The agenda should address standardization, model regulations, and other topics to ensure integrity and confidence in title insurance.

Lastly, Pragma's consultants from the Institute for Urban Economics traveled to Aktau and Atyrau to provide technical assistance to regional banks cooperating with the KMC. Their

emphasis included a review of compliance with KMC underwriting standards and efforts for improvement.

Credit Bureau

FSI continued to work to refine the legal framework in order to establish a system of private Credit Bureaus. While the passage of the Credit Bureau Law remained a key focus of efforts from August 22, 2003 through November 21, 2003, the NBK signalled that it is prepared to de-link the passage of the law from the establishment of a Credit Bureau subject to review of legal opinions that Pragma was in the process of preparing. It is expected that the NBK will agree with Pragma's legal opinion that underscores the constitutionality of establishing a private Credit Bureau without the passage of a new law.

FSI continued to expand public awareness by publishing articles in both the local and international press regarding Kazakhstan's Credit Bureau. Articles have appeared in *Credit Risk International* (London), *Kazakhstani Banks*, and *The Jurist*. Visits to utilities and retailers continue. These organizations may participate in the Credit Bureau system in Kazakhstan, which will prove to be a source of future demand for Credit Bureau services.

Other

With the onset of the quarter under review, USAID's FSI began its fourth year of operations in Kazakhstan's financial sector, where Pragma has become known as an innovative consulting company and developmental investment banker. In recognition of this fact, Pragma was invited to participate in the Second Annual International Congress of Economists in Karaganda during September 25-26 and to make a presentation to the congress on its developmental activities in Kazakhstan's financial sector (*See Attachment 1*).

Governor Marchenko has designated 2004 to be the "Year of Securitization". Accordingly, FSI, in cooperation with AED, selected and sponsored two senior staff members from the NBK, Mrs. Elik Khussainova and Mr. Issagali Konysbayev, to attend a Euromoney asset securitization seminar in London on September 15-18 (*See Attachment 2*).

Also, during the quarter, Governor Marchenko was designated Central Bank Governor of the Year by *Euromoney* magazine. *Euromoney* is read extensively by the international financial community. This distinction is considered very prestigious by practitioners in international finance.

FSI held its fourth annual team building exercise in October. The event concludes with an overnight stay at Alatau sanatorium. The stay includes numerous practical exercises to demonstrate the benefits of cooperation and shared planning. (*See Attachment 3*)

III. PROJECT STAFFING

The following personnel were engaged in project activities this quarter:

€ David Lucterhand, Chief of Party

- € Stephen Moody, Resident Senior Advisor, Financial Instruments, Mortgage, Pension/Insurance
- € Javier Piedra, Resident Senior Advisor, Credit Bureau
- € Natalya Rogozhina, Consultant, Mortgage Training
- € Alexander Kopeikin, Consultant, Mortgage Training
- € Douglas Whitely, Consultant, Mortgage Insurance
- € Sally Merrill, Consultant, National Mortgage Insurance
- € Dr. Charles Becker, Consultant, Demography
- € John Shepherd, Consultant, Actuarial
- € Robert Cemovich, Consultant, Title Insurance
- € Walter Coles, Consultant, Title Insurance

IV. ADMINISTRATIVE

FSI has three ongoing activities requiring technical assistance: Pension, Insurance, and the KMC. Technical assistance for each involves the purchase of specific services. Contracts with a valuation specialist for the SAPF; Londongate to perform regulatory analysis for the NBK Department of Insurance Supervision; and Fannie Mae to assist the KMC in operational analysis are being negotiated as fixed-price contracts. FSI expects these contracts to be signed and each task completed during the next quarter.

David Lucterhand, FSI Chief of Party was absent on leave August 31 – September 12.

LIST OF ATTACHMENTS

1. Program for the Second Annual International Congress of Economists in Karaganda
2. Program for Asset Securitization seminar in London
3. Program for FSI team-building retreat

B. FINANCIAL INSTRUMENTS

I. COMPONENT DESCRIPTION

This Report provides details on the events and activities relating to the Financial Instruments Component of the USAID Financial Sector Initiative, as implemented by the Pragma Corporation, during the period from August 22, 2003 through November 21, 2003.

The primary purpose of the Financial Instruments Component is the development of new investment-grade instruments which fill financial needs unmet by the current commercial banking, corporate and municipal finance communities in Kazakhstan, and which expand the selection of corporate or municipal securities in which private Pension Fund asset managers may invest. Secondly, the Financial Instruments Component is intended to extend the yield curve of the Kazakhstani corporate bond market by facilitating the issuance of longer maturities, and to upgrade the quality of new issues by introducing credit enhancement techniques, and by improving both bond indentures and investment memoranda.

II. SIGNIFICANT EVENTS

- € MARCHENKO APPROVES FSI SECURITIZATION INITIATIVE
- € CUMULATIVE CORPORATE BOND ISSUANCE APPROACHES \$ 1 BILLION
- € LEHMAN BROTHERS PROPOSES PPN TO PENSION FUNDS

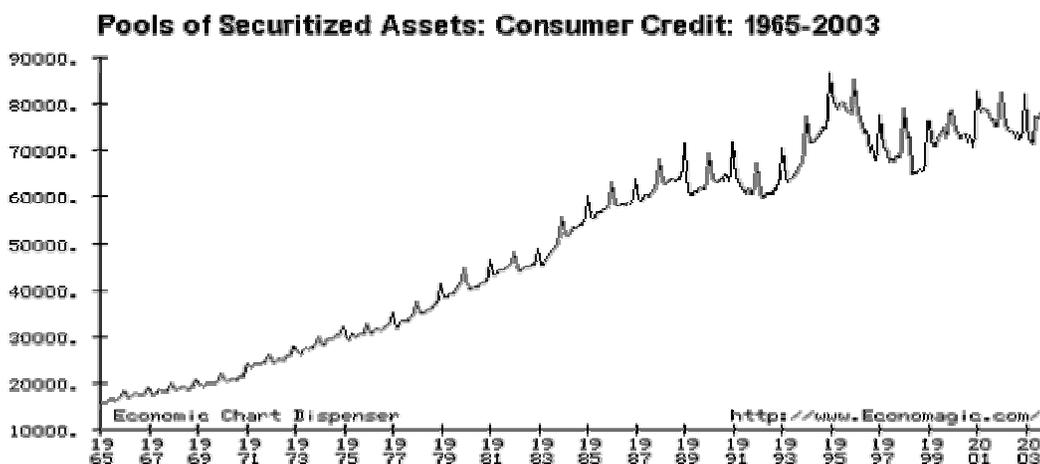
III. EXECUTIVE SUMMARY

Securitization is a form of structured finance in which the rights to certain periodic contractual cash flows (mortgages, financial leases, credit card receivables, etc.) originated by one entity are bundled and sold to a second entity, called a Special Purpose Vehicle (SPV), which simultaneously issues a bond secured by the same periodic contractual cash flows. The proceeds of the SPV issue are used to pay the originating entity for the contractual cash flows; the cash flows, which accumulate in a sinking fund in the SPV, are used to pay bondholders periodic interest on the bond and its principal at maturity.

Securitization has advantages for both originators and investors. For originators, the primary advantage is the transfer of assets from their balance sheets to those of the SPVs. The transfer is a “true sale,” meaning it shrinks originators’ balance sheets and restores capital adequacy. The primary advantage for investors is that the assets pledged against the bond are “bankruptcy remote”, that is, in the case of an originator’s bankruptcy, his creditors have no rightful claim on assets sold by the originator to the third party SPV. “True sale” transfer and bankruptcy remoteness are such potent constructs that properly structured SPV issues routinely receive the highest possible credit ratings from Moody’s, S&P and Fitch.

The best-known securitizations are Fannie Mae’s mortgage-backed securities (“pass-throughs”), of which there are more than \$1.8 trillion outstanding. But securitization has applications

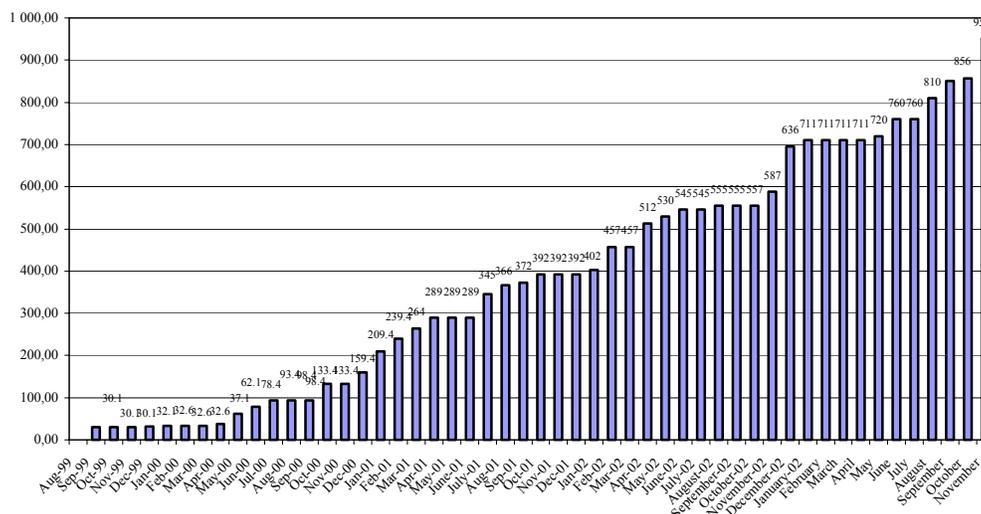
beyond mortgage-backed securities; it has become a standard form of finance for leasing companies and lease-back operators, exporters (securitization of export receipts) and credit card companies. Currently, pools of credit card receivables exceeding \$65.8 billion secure outstanding credit card company securitizations.



In September, Pragma/FSI presented a brief to the National Bank explaining the concept of securitization, reviewing its use in various national and international contexts, and summarizing a proposal to make securitization practicable in Kazakhstan. (See Attachment 1.) Pragma’s proposal contained two components: (1) a legal component which would, under the auspices of a Working Group established by NBK, develop the legal basis for securitization, including a stand-alone Law on Securitization; and (2) a financial component which would, simultaneously with development of the legal basis, structure two pilot securitization projects. The two securitization projects were not specifically named in the proposal. In fact, there are several candidates for securitization projects, including Temir Zholi (a rolling stock lease-back securitization) and the oblast of West Kazakhstan (a social obligations securitization).

The chairman of NBK, Grigorii Marchenko, approved Pragma’s proposal in September.

Cumulative Growth in Corporate Bond Issuance, \$ millions: August 1999 - November 2004



By the end of the quarter under review, cumulative corporate bond issuance in Kazakhstan stood at \$951 million, poised to surpass the benchmark of \$1 billion of cumulative issuance this year. Mortgage-backed securities from the Kazakhstan Mortgage Company account for more than \$50 million, or 16 percent, of issues placed so far this year. Currently, the weighted average maturity of outstanding corporate bonds is 5.7 years and the weighted average yield to maturity (YTM) 7.4 percent per annum.

The robust growth of Kazakhstan's domestic bond market still can't meet the demand for new financial instruments from the private accumulation pension fund system, the assets of which exceeded \$2.1 billion at the end of the quarter under review. In that regard, Pragma has been working with both the Securities Department of the National Bank and several international investment houses on identifying and qualifying investment grade instruments for investment by pension funds. One such instrument is a structured finance product called a Principal Protected Note (PPN). A PPN is in essence a medium term (five year) zero coupon, zero interest bond whose face value is protected by a Guaranteed Investment Contract (GIC) and whose "strips" (discounted interest payments) are invested in an equity, a basket of equities or an equity index, depending on the type of PPN. The generic name for PPN is equity-linked security. At maturity, the investor receives the face value of the note plus a "participation" (a fixed percentage) in the capital gains, if any, accumulated in the equity component during the term of the note.

During the quarter under review, representatives of Lehman Brothers, London, met with the Association of Asset Managers and the Securities Department of the National Bank to promote Lehman Brothers' in-house PPN and investigate the development of a new PPN specifically designed for Kazakhstan's pension funds.

With the onset of the quarter under review, USAID's FSI began its fourth year of operations in Kazakhstan's financial sector, where Pragma has become known as an innovative consulting company and developmental investment banker. In recognition of this fact, Pragma was invited to participate in the Second Annual International Congress of Economists in Karaganda during September 25-26 and to make a presentation to the congress on its developmental activities in Kazakhstan's financial sector (*See Attachments 2 & 3*).

III. ADMINISTRATIVE ISSUES

Stephen Moody was absent from September 4 through September 9, 2003.

DESCRIPTION AND STATUS OF TASKS

Task 1. Development of Financial Instruments

Defined Activity	Progress Made During Quarter/ Proposed Future Actions
<p>€ Mortgage-Backed Security</p>	<p>€ SECURED DCA GUARANTEE ADMINISTRATOR</p> <p>€ SECURED BONDHOLDER REPRESENTATIVE</p> <p>€ SECURED LARIBA SHAREHOLDERS' RESOLUTION</p> <p>€ PREPARED DRAFT BOND INDENTURE</p> <p>€ SECURED MINISTRY OF JUSTICE RULING ON PROCEDURES FOR REGISTERING MASTER PLEDGE (MORTGAGE POOL)</p> <p>€ DOCUMENTS SUBMITTED TO NBK AND NSC FOR FINAL REVIEW</p> <p>€ BOND REGISTERED WITH NSC/NATIONAL BANK</p> <p>€ BOND LISTED ON KASE</p> <p>€ FIRST MORTGAGE-BACKED SECURITY PLACED BY SECONDARY MORTGAGE - MARKET FACILITY</p> <p>€ LARIBA BANK MORTGAGE-BACKED SECURITY PLACED</p>
<p>€ Social Obligations Bond</p>	<p>€ IDENTIFIED PROSPECTIVE WATER PURIFICATION PROJECTS IN ATYRAU AND MANGISTAU OBLASTS</p> <p>€ COMPLETED DRAFT LETTER OF INTENT BETWEEN OIL COMPANIES AND AKIMATS</p> <p>€ COMPLETED PRESENTATION FOR OIL COMPANIES</p>
<p>€ Microlending Project</p>	<p>€ PERFORMED FINANCIAL ANALYSIS OF KCLF</p> <p>€ DETERMINED STRUCTURE OF POTENTIAL BOND OFFERING</p> <p>€ MADE PRESENTATION TO KCLF BOARD OF DIRECTORS</p> <p>€ RESEARCHED KCLF LEGAL STATUS AND REREGISTRATION REQUIREMENTS</p> <p>€ RESEARCHED KCLF BANKING LICENSE</p>
<p>€ Warehouse Receipts Project</p>	<p>€ GRAIN WAREHOUSE RECEIPTS REPLACED OLD SOVIET FORM PK-13 AS OFFICIAL CERTIFICATES OF OWNERSHIP OF GRAIN IN LICENSED KAZAKH ELEVATORS</p> <p>€ MET WITH ACDI-VOCA CONCERNING POTENTIAL WAREHOUSE RECEIPTS PROGRAM IN KAZAKHSTAN</p> <p>€ RESEARCHED STRUCTURE OF KAZAKH GRAIN MARKET AND OWNERSHIP OF PRIMARY GRAIN ELEVATORS</p> <p>€ CONDUCTED SEMINARS ON GRAIN INSPECTION AND GRADING</p>

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	<ul style="list-style-type: none"> € PARTICIPATED IN WORKING GROUP TO DEVELOP CREDIT PROCEDURES USING GRAIN WAREHOUSE RECEIPTS € WAREHOUSE RECEIPTS REGS APPROVED BY PARLIAMENT € SEMINARS CONDUCTED INSTRUCTING GRAIN INSPECTORS IN THE ISSUANCE, MONITORING AND MAINTENANCE OF GRAIN € WAREHOUSE RECEIPTS RECORDS GRAIN ELEVATOR MUTUAL ASSURANCE SOCIETY REGISTERED WITH MINISTRY OF JUSTICE
Principal Protected Notes (PPNs)	<ul style="list-style-type: none"> € INTRODUCED PPNs TO PENSION FUND ASSET MANAGERS € NATIONAL BANK AGREES TO THE PURCHASE OF PPNs BY PENSION FUNDS

Task 2. Legal Reform

Defined Activity	Progress Made During Quarter/Proposed Future Actions
<ul style="list-style-type: none"> € National Securities Commission Working Group 	<ul style="list-style-type: none"> € CONTRIBUTED DRAFT LANGUAGE AND COMMENTARY TO NEW UNIFIED NSC/KASE BOND REGISTRATION REGULATION € CONTRIBUTED DRAFT LANGUAGE AND COMMENTARY TO NSC MINIMUM REQUIREMENTS FOR BOND INDENTURES AND INVESTMENT PROSPECTUSES.
<ul style="list-style-type: none"> € National Bank Working Group 	<ul style="list-style-type: none"> € AGREED WITH GOVERNOR OF NATIONAL BANK TO COORDINATE EFFORTS ON A COMPREHENSIVE REFORM OF BANKRUPTCY LAW, PLEDGE LAW AND RELATED ELEMENTS OF CIVIL CODE € INITIATED THE MERGER OF THE LEGAL COMPONENTS OF THE NBK FINANCIAL INSTRUMENTS AND MORTGAGE LENDING WORKING GROUPS € REVIEWED RESUMES AND CONDUCTED INTERVIEWS WITH APPLICANTS FOR ATTORNEY POSITIONS AT NBK € IDENTIFIED FOR NBK WORKING GROUPS THE PRIMARY DEFECTS OF EXISTING PLEDGE LAW € GAVE TESTIMONY BEFORE BUDGET AND FINANCE COMMITTEE ON NATIONAL BANK'S DRAFT LAW TO EXCLUDE PLEDGED ASSETS FROM BANKRUPTCY ESTATE
<ul style="list-style-type: none"> € Pledge Registration 	<ul style="list-style-type: none"> € HELD PRELIMINARY MEETINGS WITH BTI (REGISTRATION CENTER) ON PROCEDURES FOR REGISTERING MASTER PLEDGE OF MORTGAGE POOL € SECURED MINISTRY OF JUSTICE RULING ON PROCEDURES FOR REGISTERING MASTER PLEDGE (MORTGAGE POOL) € SECURED MINISTRY OF JUSTICE RULING ON ARTICLE 308 OF THE CIVIL CODE

3. Un-tasked Activities/Accomplishments

Defined Activity	Progress Made During Quarter/Proposed Future Actions
€ Bond Index	€ DEVELOPED CLEAN PRICE BOND INDEX AND PORTFOLIO PERFORMANCE INDICATOR € INDEX AND INDICATOR MADE AVAILABLE TO PUBLIC BY REUTERS NEW SERVICE € PUBLICATION OF PRAGMA INDEX METHODOLGY IN <i>RYNOK TSENNYKH BUMAG</i>
€ Atyrau Mortgage Lending Project	€ PROVIDED LEGAL AND FINANCIAL ANALYSIS ASSISTANCE TO ATYRAU OBLAST FOR LOCAL MORTGAGE LENDING PROGRAM

LIST OF ATTACHMENTS

1. Pragma Brief to the National Bank on Securitization.
2. Pragma Presentation to the International Congress of Economists
3. Notes to above

C. PENSION AND INSURANCE

I. COMPONENT DESCRIPTION

This report provides details on events and activities relating to the Pension and Insurance Component of the USAID Financial Sector Initiative (FSI), as implemented by the Pragma Corporation, during the period from August 22, 2003 through November 21, 2003.

The purpose of the Pension part of this component is to ensure that Kazakhstan's pension system provides a suitable income for retired, disabled, sole survivors and other Kazakhstani citizens no longer able to provide for themselves.

The objective of this part of the component is to develop a strong, competitive accumulation private pension system, which is well regulated and safeguarded against systemic risk, yet which provides an adequate income for old age pensioners and supports the development of the private financial sector. Specifically, the FSI seeks to establish an effective regulatory body to supervise all components of the accumulation pension system; to assist in the privatization or liquidation of the State Accumulation Pension Fund (SAPF); and to provide technical assistance to monitor, evaluate and respond quickly to specific issues that threaten the continued development of the accumulation system.

The purpose of the Insurance part of this component is to continue existing measures to assist the National Bank (NBK) in developing a strong Department of Insurance Supervision (DIS), and to assist increasingly in the development of the Kazakhstani insurance market and the insurance industry itself.

The major objectives of this part of the component are to continue existing measures to upgrade the legal and regulatory environment of the insurance industry to a level compatible with international standards of insurance commerce; to continue existing measures to strengthen the DIS so that it is able to effectively monitor Kazakhstan's insurance market by implementing improved regulatory and supervisory functions; to continue such training and education as may be appropriate to ensure that the DIS staff is able to implement its regulatory mission effectively; to assist in the development of the insurance market in Kazakhstan (including measures to attract foreign participation to the Kazakhstani insurance market and the provision of education to the public); and to assist in the development of the insurance industry in Kazakhstan (including the provision of training and education to the insurance industry).

The results sought from this part of the component are the development of efficient, reliable insurance regulation and supervision in Kazakhstan; a legal and regulatory framework in Kazakhstan's insurance sector consistent with international standards; the institutional infrastructure necessary to support life insurance activities (actuarial capacity, information systems, etc.); and the development of the private insurance market and industry in Kazakhstan (in particular, the life insurance market and industry).

II. SIGNIFICANT EVENTS AND ACHIEVEMENTS

€ INSURERS VOTE TO REGISTER ASSOCIATION

€ PRAGMA BEGINS VALUATION OF STATE ACCUMULATION PENSION FUND

€ NATIONAL ACTUARIAL CENTER PLAGUED BY PERSONNEL PROBLEMS

III. EXECUTIVE SUMMARY

After a series of informal meetings during the summer at which insurers and other members of Kazakhstan's insurance industry discussed the pros and cons of establishing an association of insurers, participants met in October and voted officially in favor of registering such an entity with the Ministry of Justice. Pragma assisted the founders in drawing up the required registration documents.

During the quarter, the Department of Insurance Supervision requested FSI (*See Attachments 1-3*) to assess the state of insurance regulations and to measure their compliance with EU standards especially as it relates to life insurance. FSI has drafted a scope of work and is actively soliciting a response from several potential sub-contractors to complete the assignment.

Additionally, Dr. Charles Becker was in Almaty working on Kazakhstan's mortality tables and met with NBK Governor Grigori Marchenko to review progress to date. During his visit, Dr. Becker worked closely with the National Actuarial Center and noted that relations between Actuarial Center management and staff bordered on dysfunctional. This led Dr. Becker to conclude that the Center would need to restructure its management before recommending that USAID approve a pending grant request that he had helped prepare with the Center. Dr. Becker also conveyed his concern in the form a personal e-mail to Governor Marchenko and asked the Governor to intervene.

In September, the Government of Kazakhstan reiterated its interest in privatizing the State Accumulation Pension Fund. In response to the statement, the National Bank of Kazakhstan changed the prudential norms, which had governed the SAPF's investment policies since its inception, to those which now govern the investment policies of private pension funds. And at the direction of the National Bank, the management of SAPF approached Pragma with a request to value the fund for sale. Government will take the decision to privatize SAPF in the first quarter of 2004, and Pragma's valuation will provide government with an independent, third party assessment of SAPF's value as an ongoing concern. Potential buyers, whether domestic or international, will in the course of their due diligence undertake their own valuations.

After consulting with SAPF's management and several valuation specialists, Pragma decided to use valuation methodology called discounted cash flows (DCF). DCF valuation is especially applicable to companies in emerging markets, where private companies' performance histories are short and mergers and acquisitions of similar companies of comparable size and operations rare. In short, there are no benchmarks for comparative analysis. Pragma will discount the cash flows using two kinds of software: (1) a so-called "Economic Profit" model developed by McKinsey & Company and (2) a NOPLAT (Net Operating Profit Less Adjusted Taxes) model developed by Pragma consultants. Both require essentially the same assumptions on income and expense and, because both use real rates of return, both ignore extraneous factors like inflation, which in Kazakhstan is relatively high and hard to predict with any precision. The McKinsey model discounts cash flows over an investment horizon of fifteen years; the NOPLAT model uses a ten-year time frame. Because the NOPLAT model is more flexible and easier to use, Pragma will probably rely more on its results than those of the McKinsey model.

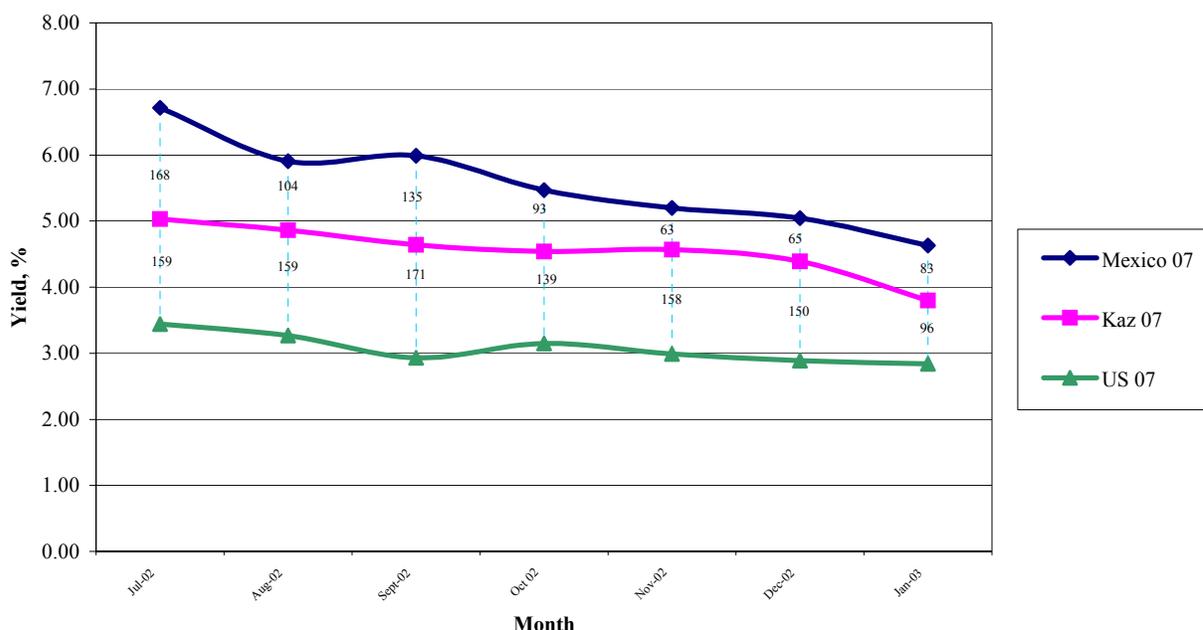
Unlike some pension funds, SAPF acts as its own asset manager, and SAPF's primary source of income is the fifteen percent success fee it receives on investment income. The fund also receives a 0.02 percent commission on total assets under management, but the more significant cash flows derive from asset management. For that reason, Pragma brought in a short-term consultant with expertise in asset allocation to evaluate SAPF's investment portfolio and its asset allocation process and risk management techniques as well as the portfolio valuation methods required by pension fund regulators. The evaluation was essential to determining (1) what category of western investment fund or unit trust SAPF most resembles and (2) the appropriate "sophistication factor" discounts to apply to SAPF's asset allocation and risk management techniques, to the adequacy of regulatory oversight and to the investment environment in Kazakhstan as a whole.

The structure of SAPF's investment portfolio will no doubt change over the proposed investment horizon. However, based on evaluation of the current portfolio and consultations with the fund's asset managers, Pragma has determined that the primary characteristics of SAPF'S portfolio will consistently resemble that of what Lipper categorizes as a "international bond fund;" that is, a fund whose assets are, in the main, dollar- and foreign currency-denominated non-US sovereign and corporate debt issues. In the case of SAPF, of course, local sovereign and corporate issues, including local mortgage-backed securities, should constitute the majority of the fund's assets because the fund's liabilities—future pension payouts—are denominated in tenge. As far as possible, SAPF should avoid currency mismatches between assets and liabilities.

Having identified SAPF as an international bond fund look-alike, Pragma will then "import" the ten-year average annual performance history of one such fund or, better yet, the Lipper "peer group" of one such fund. SAPF's own performance history is, at five years, not long enough to allow reasonable projections of future performance; further, it's somewhat skewed by the "start-up" period during which the standard deviation of annual investment performance and expense allocation is understandably higher than desirable.

Importing performance history would appear to suggest that a relatively new, Almaty-based fund operating in Kazakhstan's relatively new investment environment will, on average, perform as well as a long-established, New York-based fund (or group of funds) operating in the long-established, albeit often volatile, investment environment of, say, the Pacific Rim or Latin America. No such suggestion is intended. The secondary purpose of importing performance history is to establish benchmarks against which performance determinants within SAPF and within Kazakhstan's investment environment can be reasonably measured. For example, international bond funds that invest in assets denominated in a foreign currency typically hedge their foreign currency exposure; SAPF does not. And the reason is not that SAPF doesn't know it has foreign currency exposure or how to hedge it, but because in Kazakhstan's investment environment there is no effective hedge between, say, US dollars and tenge (i.e., a future's market) and, even if there were, the regulatory prudential norms do not yet allow pension funds to engage in hedging operations. These are deficiencies in Kazakhstan's investment infrastructure and regulatory agency—not in SAPF itself—but they nonetheless have a negative impact on SAPF's investment performance when compared to the performance of peer group of international bond funds.

Yield Spreads in Basis Points: Mexico 2007 Eurobond; Kazakhstan-2007 Eurobond; 5-Year U.S.Treasury
 Note: July 2002 - January 2003



Source: - Kazakhstan Stock Exchange, U.S. Federal Reserve, Reuters

Not all elements of Kazakhstan’s investment environment are necessarily negative for international bond fund. International bond funds value Kazakhstan’s international sovereign issues higher than those of Mexico. (See chart above.) Unfortunately, what’s good for international bond funds is not always necessarily good for SAPF: first, since the KZ07 is denominated in US Dollars, it represents currency risk that SAPF cannot hedge; and second, even if the fund could hedge it, it would yield less than the current rate of tenge-based inflation. It’s real rate of return to SAPF is negative. The valuation will compare SAPF to its peer group of international bond funds across a range of performance determinants, from macroeconomic (tenge inflation) to regulatory environment. And where SAPF or its investment environment will be found lacking, the valuation will either discount the imported performance history or add a premium to the hurdle rate (the rate at which the cash flows are discounted). The total of the discounts are, for lack of a better term, called the sophistication factor, implying of course that SAPF and its investment environment will be found less sophisticated than its peer group and their environment and, therefore, SAPF’s projected investment performance will be less than that of the peer group. The primary components (or points of comparison) of the sophistication factor are:

- € Regulatory agency and environment
- € Risk management systems and techniques
- € Macroeconomic indicators
- € Investment environment (the universe of financial instruments and cash, forwards and futures markets)

At this point, valuation becomes as much art as science. Sophistication factor discounts are largely subjective and arbitrary; they depend heavily on the valuation specialist’s experience with similar valuations or similar mergers and acquisitions and on his understanding of the local

investment environment. For that reason they are typically “negotiated” with client (in this case, SAPF). The main attribute of this discounts might be reasonableness. Pragma intends to complete the valuation in February 2004.

ADMINISTRATIVE ISSUES

Resolution of National Actuarial Center Management / Staff issues.

Stephen Moody was absent from September 4 through September 9, 2003.

V. DESCRIPTION AND STATUS OF TASKS

Task 1 Pension – Establishing an Effective, Efficient Unified Regulatory Body

Defined Activity	PROGRESS MADE DURING QUARTER/PROPOSED FUTURE ACTIONS
<p>€ Prepare a strategy and timetable for achieving the establishment of a unified, independent regulatory body (within 30 calendar days of the start of the activity)</p>	<p>€ AS PART OF A LARGER MERGER OF REGULATORY BODIES, IN MID-OCTOBER, 2001 THE NBK OFFICIALLY TOOK CONTROL OVER THE STATE ACCUMULATION PENSION FUND.</p>
<p>€ Support political efforts to establish a unified regulatory body</p>	<p>€ PRAGMA’S INVOLVEMENT IN THIS AREA HAS BEEN DOWNGRADED FROM A PROACTIVE ROLE TO ONE OF ASSISTANCE.</p>
<p>Establish standardized (uniform) reports, methodologies, normative acts, and supervision</p> <p>€ Unified reporting</p> <p>€ Common methodologies</p> <p>€ Unified supervision</p>	<p>€ PRAGMA CONTINUED TO SUPPORT AND ACTIVELY PARTICIPATE IN MARKET ASSET VALUATION COMMITTEE ACTIVITIES.</p> <p>€ PRAGMA CONTINUED ITS ANALYSIS OF THE COMMISSION FEE STRUCTURE FOR PENSION PLANS, BASED ON A VARIETY OF SCENARIOS.</p> <p>€ PRAGMA CONTINUED TO CONTRIBUTE TO A LEGAL WORKING GROUP ESTABLISHED TO IDENTIFY AND PROCESS REQUIRED AMENDMENTS TO THE PENSION LAW.</p>

Task 2 Pension – Privatization or Liquidation of the State Accumulation Pension Fund

Defined Activity	PROGRESS MADE DURING QUARTER/PROPOSED FUTURE ACTIONS
<ul style="list-style-type: none"> € Prepare a plan for eliminating the State Accumulation Pension Fund as a dominant market force (within 45 days of the start of the activity) 	<ul style="list-style-type: none"> € PRAGMA’S INVOLVEMENT IN THIS AREA HAS BEEN DOWNGRADED FROM A PROACTIVE ROLE TO ONE OF ASSISTANCE (SEE ABOVE).
<ul style="list-style-type: none"> € Resolve technical issues related to the privatization of the SAPF € Clean up duplicate accounts € Prepare financial analysis € Prepare a preliminary design 	<ul style="list-style-type: none"> € PRAGMA’S INVOLVEMENT IN THIS AREA HAS BEEN DOWNGRADED FROM A PROACTIVE ROLE TO ONE OF ASSISTANCE (SEE ABOVE).
<ul style="list-style-type: none"> € Strengthen political support for the privatization of the SAPF € Build support from donors, international investors, etc. € Provide local counterparts with supporting analysis 	<ul style="list-style-type: none"> € PRAGMA’S INVOLVEMENT IN THIS AREA HAS BEEN DOWNGRADED FROM A PROACTIVE ROLE TO ONE OF ASSISTANCE (SEE ABOVE).

Task 3 Pension – Monitoring, Evaluation and Quick Response

Defined Activity	Progress Made During Quarter/Proposed Future Actions
<ul style="list-style-type: none"> € Identify key threats to the pension system and develop a plan for monitoring them (within 30 calendar days of the start of the activity) 	<ul style="list-style-type: none"> € PRAGMA CONTINUES TO MAINTAIN A “WATCHING BRIEF” ON THREATS AND DEVELOPMENTS, USING MEDIA MONITORING AND PROFESSIONAL CONTACTS.
<ul style="list-style-type: none"> € Improve record keeping 	<ul style="list-style-type: none"> € PRAGMA’S INVOLVEMENT IN THIS AREA HAS BEEN DOWNGRADED FROM A PROACTIVE ROLE TO ONE OF ASSISTANCE (SEE ABOVE).
<ul style="list-style-type: none"> € Improve policies and supervision 	<ul style="list-style-type: none"> € SEE “<i>ESTABLISHING STANDARDIZED (UNIFORM) REPORTS, METHODOLOGIES, NORMATIVE ACTS, AND SUPERVISION</i>” € PERFORMED PRELIMINARY LIQUIDITY ANALYSIS

Task 1 Insurance – Supervision / DIS Efficiency

Defined Activity	Progress Made During Quarter/Proposed Future Actions
<p>€ Assess Department of Insurance Supervision (DIS) current procedures and practices, organizational structure, supervisory framework, use of information technology, staff capabilities and training needs within 60 days of start of contract date for production of User Guide to be established within 30 days of start of contract dates of other relevant areas</p>	<p>€ TASK WAS COMPLETED PRIOR TO QUARTER</p>
<p>€ Develop framework for upgrading supervisory procedures and practices within 60 days of start of contract</p>	<p>€ INITIAL FRAMEWORK WAS DEVELOPED PRIOR TO QUARTER</p>
<p>€ Implement framework date for production of User Guide to be established within 30 days of start of contract</p>	<p>€ TASK WAS COMPLETED PRIOR TO QUARTER</p>
<p>€ Develop and deliver DIS training based on TNA date for production of User Guide to be established within 30 days of start of contract dates of other specific areas</p> <p>€ Identify foreign opportunities</p>	<p>€ TASK WAS COMPLETED PRIOR TO QUARTER</p>
<p>€ Develop and implement certification exams for relevant industry participants</p>	<p>€ AREAS (IF ANY) IN RESPECT OF WHICH CERTIFICATION EXAMINATIONS WILL BE REQUIRED ARE TO BE IDENTIFIED IN CONSULTATION WITH DIS</p> <p>€ THIS IS A LONGER-TERM ISSUE AND IS CURRENTLY A LOW PRIORITY</p> <p>€ NO ACTION TAKEN DURING QUARTER</p>
<p>€ Develop and implement dispute resolution regime</p>	<p>€ THIS WAS AN AREA IDENTIFIED DURING THE ASSESSMENT PHASE AS REQUIRING TRAINING</p> <p>€ IMPLEMENTATION MAY FACE LEGAL DIFFICULTIES, INCLUDING AMENDMENT OF OTHER LEGISLATION</p>

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	<p>€ DIRECTOR OF THE DIS ADVISES THAT HE PREFERS TO KEEP THIS ACTIVITY INTERNAL, INFORMAL AND LOW-KEY, DUE PRIMARILY TO RESOURCE CONSTRAINTS</p> <p>€ NO ACTION TAKEN DURING QUARTER</p>
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Task 2 Insurance – Legal Reform

Defined Activity	Progress Made During Quarter/Proposed Future Actions
<p>€ Develop and pass legislation</p>	<p>€ FINAL DRAFTS OF LAWS FOR MOTOR VEHICLE AND COMMON CARRIER MANDATORY LIABILITY INSURANCE WERE TO BE SUBMITTED TO PARLIAMENT IN DECEMBER, 2001. HOWEVER, THE MAZHILIS REJECTED DRAFTS OF MANDATORY INSURANCE LAW DUE TO THE ABSAENCE OF AN INSURANCE INDEMNITY FUND EFFECTIVELY GUARANTEEING THE MANDATORILY INSURED AGAINST LOSS DUE TO FAILURE OF INSUROR</p> <p>€ DEVELOPED PROPOSAL FOR MANDATORY INSURANCE INDEMNITY FUND</p>
<p>€ Develop and promulgate regulations</p>	<p>€ DRAFT REGULATION ON OPERATIONS OF INSURANCE AGENTS PREPARED AND SUBMITTED TO NBK AND ASSOCIATION OF FINANCIERS INSURANCE DIVISION</p> <p>€ PRIOR TO THIS QUARTER, DRAFT REGULATION WHICH WOULD ALLOW INSURANCE COMPANIES TO CALCULATE THEIR OWN PREMIUMS FOR SOME TYPES OF MANDATORY INSURANCE WAS SUBMITTED TO NBK AND PARTIALLY ADOPTED</p>
<p>€ Assess rules and regulations within 60 days of start of contract</p>	<p>€ DISCUSSIONS CONTINUED ON HOW TO IMPLEMENT CUSTOMS BONDING INSURANCE</p> <p>€ FURTHER ASSESSMENT WILL FOLLOW THE PROMULGATION OF ALL NECESSARY REGULATIONS UNDER THE NEW INSURANCE LAW</p>
<p>€ Develop short-term plan (approved by DIS) to reform rules and regulations within 60 days of start of contract date for production of User Guide to be established within 30 days of start of contract</p>	<p>€ THIS WILL FOLLOW COMPLETION OF THE ASSESSMENT OF THE RULES AND REGULATIONS (SEE PRECEDING BOX)</p> <p>€ NO ACTION TAKEN DURING QUARTER</p>
<p>€ Develop and implement consumer protection measures, including trade practices and consumer disclosure requirements</p>	<p>€ NO ACTION TAKEN DURING QUARTER</p>

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Develop and implement rules for licensing: € brokers € actuaries € auditors € companies € other relevant industry participants	€ THESE WILL BE SET OUT IN THE REGULATIONS CURRENTLY UNDER EXAMINATION BY THE NBK € ACTUARIAL LICENSING REQUIREMENTS IMPLEMENTED DURING PAST QUARTER
Develop and issue other required regulatory documents: € guidelines € rulings € interpretation bulletins € best practices papers	€ THESE ARE LONGER TERM GOALS, AND REFLECT MATURITY OF THE SUPERVISORY PROCESS AND FINE-TUNING OF LEGISLATION AND REGULATIONS. THE DIRECTOR OF THE DIS HAS ACKNOWLEDGED THE EVENTUAL NEED FOR SUCH DOCUMENTS € NO ACTION TAKEN DURING QUARTER

LIST OF ATTACHMENTS

Foundation and Registration Documents for the Association of Insurers:

1. Draft Charter
2. Constituent Agreement
3. Entry Declaration Form

D. MORTGAGE

I. COMPONENT DESCRIPTION

This report provides details on events and activities relating to the Mortgage Component of the USAID Financial Protection Initiative, as implemented by the Pragma Corporation, during the period from August 22, 2003 through November 21, 2003.

The primary purpose of the Mortgage Component is to provide technical, advisory, and training assistance to banks and non-bank financial institutions willing to start mortgage lending market operations and assist in developing mortgage origination, and to provide banks with the technical assistance necessary for securitization of mortgage pools in order to demonstrate how mortgage pools can be liquefied and proceeds re-lent. Further, it is to develop and support the legislative and regulatory framework for supporting the mortgage lending industry. A collateral activity, designed to increase mortgage origination as well as increased securitization, includes the introduction of National Mortgage Insurance.

II. SIGNIFICANT EVENTS

- € NEW KMGF CHAIRMAN DESIGNATED
- € ASSESSMENT OF REGISTRATION CENTERS COMPLETED
- € FSI/IUE CONSULTANTS CONTINUE TECHNICAL ASSISTANCE TO KMC AND ORIGINATING BANKS
- € ACCUMULATION OF MORTGAGE ORIGINATION EXCEEDS \$218 MILLION

III. EXECUTIVE SUMMARY

The Mortgage component and the Financial Instruments component are inter-related.

The NBK appointed Arman Megashev, the former head of banking supervision at the National Bank, as chairman of The Kazakhstan Mortgage Guarantee Fund (KMGF) for start-up of the Fund. He continued initial organizational activity by procuring office space, hiring staff and purchasing equipment. FSI requested and received approval from UAID to purchase computer and office equipment for the Fund not to exceed \$12,000. His new deputy, Gulfarus Shaikokova, assumed responsibility for legal drafting of the master plan that will govern the terms and conditions of the fund with participating banks. FSI attorneys are working closely with the new deputy to complete the policy. Pragma consultants also prepared a briefing memorandum for Governor Marchenko that addressed the risk weighting that should be given for mortgages using KMGF guarantees for bank regulatory capital purposes and reviewed operational assumptions in the business plan. (*See Attachment 1*).

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Residential mortgage origination during this quarterly period has accumulated to approximately \$218 million, an increase of approximately \$55 million over the previous quarter. The successful placement of KMC's MBS has encouraged banks to make more mortgages. Now that the KMC has achieved Agency status, income to investors is tax-free. Banks are secure in the knowledge that the KMC can purchase and place all the mortgages they originate. The KMC is planning to conduct bi-weekly auctions for the purpose of ensuring predictability to investors and maintaining sufficient liquidity for the purchase of new mortgages.

An assessment of conditions in Kazakhstan that would allow the introduction title insurance was completed by Robert Cemovich and Walter Coles, consultants with Stewart Title based in Houston. In his conclusions, Cemovich states that a title insurance industry is about to emerge in Kazakhstan. Further, he states that no reserve or guarantee funds are in place. Title Insurance should be regarded as a guaranty and not insurance. He recommends hosting a two-day conference on title insurance, involving representatives of the Ministry of Justice, National Bank, KMC, Centers for Real Estate Registration, National Agency for Land Resource Management and interested insurance companies, mortgage companies, banks, real estate professionals, notaries and lawyers. The agenda should address standardization, model regulations, and other topics to ensure integrity and confidence in title insurance. (*See Attachment 2*)

Pragma's consultants from the Institute for Urban Economics traveled to Aktau and Atyrau provided technical assistance to regional banks cooperating with the KMC. Their emphasis included a review of compliance with KMC underwriting standards and efforts for improvement. The consultants also continued their technical assistance to the Kazakhstan Mortgage Company (KMC) for development of rules, procedures and the methodology for setting rates (on adjustable rate mortgages to be sold to investors) for the new KMC MBS agency issues (*See Attachment 3*).

FSI continued its technical assistance to BTA mortgage in preparation of its first MBS including review of its registration documents. Its first issue is expected to be listed on KASE in the next quarter.

IV. ADMINISTRATIVE ISSUES

David Lucterhand, Senior Advisor, was absent August 31-September 12, 2003

V. DESCRIPTION AND STATUS OF TASKS

Task 1 – Legal and Regulatory Reform

Defined Activity	Progress Made During Quarter/Proposed Future Actions
<p>€ Assessment of rules and regulations for the mortgage sector</p>	<p>€ COMPLETED BY IUE</p>
<p>€ Work plan for reform of rules and regulations</p>	<p>€ COMPLETED BY IUE</p>
<p>€ Work plan for development of mortgage default insurance</p>	<p>€ COMPLETED BY IUE</p>
<p>€ Assessment of rules and regulations relevant to default insurance and recommendations for development of such a product, including relevant data collection</p>	<p>€ COMPLETED BY IUE AND UI</p>
<p>€ Implementation of work plan for reform of mortgage lending rules and regulations, including development of needed legislation</p>	<p>€ DURING THE QUARTER, THE MAJILIS PASSED AN AMENDMENT THAT EXCLUDES REAL ESTATE COLLATERAL (PLEDGE) USED IN MORTGAGE BACKED-SECURITIES FROM BANKRUPTCY ESTATE CONSITUTING A MAJOR STEP IN THE REFORM OF BANKRUPTCY STATUATES.</p>

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Task 2 – Creating Fully Trained Mortgage Banking Personnel

Defined Activity	Progress Made During Quarter/Proposed Future Actions
<p>€ Review of mortgage banking courses and materials developed by Housing Sector Reform Project</p>	<p>€ THIS WAS COMPLETED THROUGH CONSULTATION WITH PRAGMA’S COP AND IUE STAFF IN MOSCOW.</p>
<p>€ Framework for mortgage banking training developed</p>	<p>€ THIS WAS COMPLETED THROUGH CONSULTATION WITH PRAGMA’S COP AND IUE STAFF IN MOSCOW. THE FIRST MODULE OF COURSES WAS COMPLETED IN APRIL 2000. A REPEAT OF THESE COURSES WAS OFFERED IN MARCH AND APRIL 2002. DELIVERY OF ANOTHER CML COURSE BEGAN IN FEBRUARY 2003, IN COOPERATION WITH THE KAZAKHSTAN MORTGAGE COMPANY (KMC). PARTS TWO AND THREE WERE COMPLETED IN MARCH AND APRIL.</p> <p>€ 62 PERSONS HAVE NOW RECEIVED CERTIFIED MORTGAGE LENDER (CML) DESIGNATION. TO ENSURE TRAINING SUSTAINABILITY, FUTURE CML TRAINING WILL BE OFFERED BY THE KMC WITH OVERSIGHT PROVIDED BY IUE.</p>
<p>Development of strengthened modules for:</p> <ol style="list-style-type: none"> 1. Alternative mortgage instruments, including spreadsheet program for class use 2. Features of different mortgage securities - “mortgage bank model” use of guarantees 3. Adjust courses to Kazakh situation; develop local case studies 4. Development of loan servicing simulation software 	<p>€ THE CML CURRICULUM WAS CUSTOMIZED TAKING INTO ACCOUNT 1, 2 & 3 AND KAZAKHSTANI PRACTICES, AND INCORPORATED INTO THE THREE MODULES COMPLETED IN APRIL 2000 FOR USE BY THE TRAINERS OF THE ALMATY BANK TRAINING CENTER (ABTC). THE CURRENT CURRICULUM WAS FURTHER UPDATED TO EMPHASIZE THE BENEFITS OF SECURITIZATION SINCE KAZAKHSTANI BANKS AS WELL AS THE KMC ARE NOW ISSUING MORTGAGE-BACKED SECURITIES. IT IS ESSENTIAL THAT PRACTITIONERS UNDERSTAND THE RELATIONSHIP BETWEEN PRIMARY ORIENTATION AND SECONDARY MARKET ISSUANCE ESPECIALLY AS IT RELATES TO UNDERWRITING STANDARDS FOR CONFORMING LOANS.</p> <p>€ THE LOAN SIMULATION SOFTWARE CURRENTLY AVAILABLE HAS NOT BEEN UPDATED DUE TO THE EXPENSE INVOLVED AND USE BY BANKS OF MORE MODERN SYSTEMS. CONSEQUENTLY, THIS EFFORT HAS BEEN CURTAILED. SOFTWARE SPECIFICALLY DESIGNED FOR LOAN SERVICING AND CURRENTLY AVAILABLE WILL BE DISCUSSED DURING THE COURSE OF THE FANNIE MAE VISIT TO THE KMC.</p>

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	<p>€ TWO TRAINERS FROM THE ABTC ATTENDED AND COMPLETED COURSES I, II AND III, AND RECEIVED THE DESIGNATION OF ‘CERTIFIED MORTGAGE LENDER’. SINCE THEN, MORTGAGE EXPERTS FROM IUE HAVE PROVIDED ONGOING TECHNICAL ASSISTANCE TO THE ABTC IN TEACHING, COURSE DEVELOPMENT AND CONTENT. DURING A FEBRUARY VISIT AND REVIEW OF MATERIALS AND INSTRUCTOR CONTENT KNOWLEDGE, IUE CONSULTANTS DELAYED DELIVERY OF ABTC’S CML MORTGAGE TRAINING COURSE IN ORDER TO REFINE THE CURRICULUM AND TEACHING METHODS. THE COURSES WERE DELIVERED IN MARCH AND APRIL 2002. HOWEVER, IUE CONSULTANTS DO NOT FEEL THAT TEACHING STANDARDS ARE HIGH ENOUGH TO CONTINUE USING ABTC AS A PROVIDER. AFTER CONSULTATION, THE KAZAKHSTAN MORTGAGE COMPANY AGREED TO BEGIN PROVIDING CML COURSES AFTER APRIL 2003. THE NBK ALREADY REQUIRES A CML DESIGNATION FOR ANY BANK MORTGAGE DEPARTMENT EMPLOYEE DOING BUSINESS WITH THE KMC. FSI COMPLETED ‘TRAINING THE TRAINERS’ FOR KMC AT THE END OF APRIL. THE KMC IS NOW PREPARED TO CONTINUE THIS COURSEWORK-ENSURING SUSTAINABILITY OF MORTGAGE LENDING TRAINING.</p>
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Task 3 – Develop Action Plans for Mortgage Lending Infrastructure and Implement Selected Plans

Defined Activity	Progress Made During Quarter/Proposed Future Actions
<p>€ Formation of independent appraisal association</p>	<p>€ THE KAZAKHSTAN SOCIETY OF REAL ESTATE APPRAISERS IS NOW FUNCTIONING AS A REGISTERED LEGAL ENTITY. ITS FORMAL NAME IS THE UNION OF APPRAISERS. FSI CONTINUES TO SUPPORT EDUCATIONAL ACTIVITIES AND IS CONTINUING COOPERATIVE ACTIVITIES WITH THE ARIZONA-KAZAKHSTAN PARTNERSHIP.</p>
<p>€ Formation of professional real estate brokers association.</p>	<p>€ THE ALMATY ASSOCIATION OF REALTORS WAS FORMED IN THE SPRING OF 2002. SINCE THEN FSI HAS SUPPORTED THEIR PROFESSIONAL DEVELOPMENT FUNDING SEMINARS AND EDUCATIONAL TRIPS THAT EMPHASIZE ETHICS IN SELLING PRACTICES AND TRANSPARENCY IN REAL ESTATE TRANSACTIONS. DURING THE QUARTER AND IN COOPERATION WITH THE RUSSIAN GUILD OF REALTORS, FSI FUNDED AND PARTICIPATED IN A SEMINAR DEDICATED TO THE USE OF ETHICS IN PROFESSIONAL PRACTICE. FOLLOW-UP MEETINGS ARE PLANNED DURING THE NEXT TWO QUARTERS TO ADDRESS THE ASSOCIATION’S EFFECTIVENESS.</p>
<p>€ Devise or adjust methodology for appraisal of property that is being mortgaged</p>	<p>€ FSI IN COOPERATION WITH THE KMC AND THE BANKS HELD A ROUND TABLE ON HOW TO IMPROVE COORDINATION. DURING DISCUSSION, MANY PARTICIPANTS HIGHLIGHTED THEIR LACK OF CONFIDENCE IN THE EMPLOYMENT OF A STANDARDIZED APPRAISAL METHODOLOGY. CONSEQUENTLY, FSI ORGANIZED A SEPARATE MEETING WITH THE CHAMBER OF APPRAISERS AND A REPRESENTATIVE OF THE BANKING COMMUNITY, BTA MORTGAGE. AS A RESULT,</p>

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<p>€ Establish methods and terms of mortgage risk insurance</p>	<p>A MEMO OUTLINING OUTSTANDING ISSUES DISCUSSED WAS PREPARED BY FSI AND DISDRIBUTED TO EACH FOR COMMENT. A FOLLOW-UP MEETING IS PLANNED ON HOW BEST TO ADDRESS THESE DEFICIENCIES.</p> <p>€ A FEASIBILITY STUDY CONDUCTED BY THE URBAN INSTITUTE AND THE INSTITUTE FOR URBAN ECONOMICS IN MOSCOW WAS COMPLETED IN FEBRUARY 2002. A FINAL BUSINESS PLAN WAS PREPARED AND PRESENTED TO THE NBK. THE PLAN INCORPORATED GOVERNOR MARCHENKO'S COMMENTS REGARDING THE NEED FOR DETAILED PROCEDURES FOR PAYING CLAIMS AND RECOVERY BY THE MORTGAGE INSURANCE COMPANY OF KAZAKHSTAN. THE PLAN WAS SUBMITTED TO THE NBK AND APPROVED BY THE BANK'S SUPERVISORY BOARD.IN SEPTEMBER. THE PLAN INCLUDES \$5MILLION IN CAPITAL.PROVIDED BY THE NBK. AND \$1 MILLION FROM USAID TO FUND OPERATIONAL EXPENSES. AS A RESULT, A NATIONAL MORTGAGE INSURANCE WORKING GROUP CONSISTING OF BANKS, THE NBK, AND FSI CONSULTANTS WAS SET UP TO ADDRESS THE SPECIFICS OF SETTING PREMIUMS AND DESIGNING THE MASTER POLICY WHICH GOVERNS THE RELATIONSHIP BETWEEN THE BANKS AND THE NATIONAL MORTGAGE INSURANCE ENTITY. AFTER REVIEWING WORKING GROUP RESULTS, THE NBK APPOINTED A NEW CHAIRMAN OF THE KMGF GIVING FSI A COUNTERPART WITH WHOM TO WORK. DEVELOPMENT LEGAL DOCUMENTS AND ORGANIZATION OF THE FUND ARE NOW PRIORITIES.</p> <p>€ FSI/UI CONSULTANTS ALSO ANALYZED NBK CAPITAL RESERVE REQUIREMENTS FOR MORTGAGE LENDING AND PREPARED A DRAFT MEMORANDUM FOR NBK CHAIRMAN GOVDERNOR MARCHENKO WITH SUGGESTIONS FOR LOWERING THESE REQUIREMENTS ON MORTGAGES HAVING KMGF GUARANTEES. THESE RECOMMENDATION WERE GIVEN TO THE NEW KMFG CHAIRMAN PRIOR TO SUBMISSION TO GOVERNOR MARCHENKO.</p>
<p>€ System of registration of real estate rights and transactions</p>	<p>€ AN ANALYSIS OF THE OVERALL PROPERTY REGISTRATION SYSTEM WAS COMPLETED. THE ANALYSIS NOTED FEW IMPEDIMENTS TO THE ESTABLISHMENT OF TITLE INSURANCE BE IDENTIFIED. NEXT STEPS INCLUDE ORGANIZING A CONFERENCE OF INTERESTED PARTIES.</p>

Task 4 – Rules and Procedures of Retail Mortgage Lending

Defined Activity	Progress Made During Quarter/Proposed Future Actions
<p>Assessment of:</p> <ul style="list-style-type: none"> € Bank internal rules and procedures for retail mortgage banking € External rules and regulations for retail banking 	<ul style="list-style-type: none"> € COMPLETED AS PART OF THE IUE ASSESSMENT. € COMPLETED AS PART OF THE IUE ASSESSMENT.
<ul style="list-style-type: none"> € Work plan to establish rules and procedures for retail mortgage lending 	<ul style="list-style-type: none"> € COMPLETED AS PART OF THE IUE ASSESSMENT. RESULTS WERE REFLECTED IN UPDATED CML COURSEWORK.
<ul style="list-style-type: none"> € Standards for mortgage underwriting, loan documentation rules, mortgage contracts 	<ul style="list-style-type: none"> € THIS WAS UPDATED FOR INCLUSION IN CML COURSEWORK THAT WAS COMPLETED IN APRIL 2002. THE CURRICULUM WAS UPDATED TO REFLECT DEVELOPMENT OF THE SECONDARY MORTGAGE MARKET IN KAZAKHSTAN.

LIST OF ATTACHMENTS

1. Memorandum to Governor Marchenko
2. Title Insurance Report
3. Aktau and Atyrau report

E. CREDIT BUREAU/CREDIT RATING AGENCY

COMPONENT DESCRIPTION

Credit Bureau

This report provides details on events and activities relating to the Credit Bureau/Credit Rating Component of the USAID Financial Sector Initiative, as implemented by the Pragma Corporation, during the period from August 22, 2003 through November 21, 2003.

The objective of this activity is to establish a Credit Bureau and rating agency capacity in Kazakhstan. A Credit Bureau serves as a financial intermediary between the lender and the borrower in order to stimulate, in the first instance, the SME and retail markets within a country.

Furthermore, a Credit Bureau helps to develop a solid middle class and produces both short and long term benefits to an economy by empowering the citizens in any country with greater mobility, greater opportunity, and, in the long run, by providing individuals with greater resilience against economic shocks. A Credit Bureau also provides products, services, convenience, security, acknowledgment, accessibility, and low costs to all individuals in society. The result of this is increased access to credit across the income spectrum, greater purchasing power for individuals and the improved transparency of small businesses.

The practical definition of a Credit Bureau, for design and implementation purposes in Kazakhstan, is one of an impartial entity that will store all past and present credit transactions entered into by a particular legal or physical person, and one that will indicate the manner in which the subject of the credit profile repaid the obligation to the respective creditors. The Credit Bureau will also contain demographic information on the subject to ensure proper identification, information that is pertinent to their creditworthiness, and an indication of the overall risk relating to an applicant as regards the repayment of newly established credit, such as inquiries by other parties with a permissible purpose. The Credit Bureau will provide an avenue for the verification or validation of any information that may be questioned or disputed by the subject of the credit profile. A Credit Bureau serves both parties in a credit transaction and is an excellent tool to reduce risk and facilitate and accelerate the approval process.

The Credit Bureau component of FSI remains a high priority for Kazakhstan. From August 22, 2003 through November 21, 2003, Pragma continued to undertake a proactive public relations effort to further widen interest in a Credit Bureau, solidified contacts with potential investors, advanced discussions with possible technical assistance providers, and significantly advanced discussions on the draft Credit Bureau law.

The Government of Kazakhstan is determined to establish a system of Credit Bureaus that will serve the entire country. To this end, the government, in principle, reached an agreement to submit the draft Credit Bureau law to the Mazhilis by year-end 2003.

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Pragma worked with all stakeholders, particularly the NBK and the Association of Financiers of Kazakhstan, to reach a common position on the remaining major Credit Bureau policy items.

The passage of the Credit Bureau Law remained a key focus of efforts from August 22, 2003 through November 21, 2003. The draft law touches on one of the most sensitive issues surrounding the establishment and operation of a Credit Bureau: the trade-off between the protection of personal privacy and the flow of information.

Rating Agency

The rating agency part of this component is central to the development of financial markets and for making effective financial intermediation possible in Kazakhstan. Lenders and market participants need to be able to assess risk in order to engage in credit relationships. Moreover, free economies require the open transfer of information among market participants. An informed market also leads to improved prudential lending in traditionally volatile markets, thus stimulating economic growth and development for a larger segment of the population.

The objective of the rating component remains to develop the capabilities for providing valuation services and credible financial information for judging risks inherent in financial instruments in Kazakhstan over the medium term. Other medium term objectives are to develop risk analysis capabilities, to build the confidence and serve the needs of both domestic and international investors by providing them with analysis, advice, and database resources, to enhance investment transparency, and also to prepare the ground for delivery of financial and investment information by offering a range of products and services that meet the credit risk management needs of financial institutions and investors.

I. SIGNIFICANT EVENTS

- € “KAZAKHSTANI BANKS”, “JURIST” AND “CREDIT RISK INTERNATIONAL” SEPARATELY FEATURE FSI ARTICLE ON KAZAKHSTANI CREDIT BUREAU.
- € USAID/FSI, EXPERIAN, IFC AND ASSOCIATION OF FINANCIERS OF KAZAKSHTAN DISCUSS IDEA OF “ALLIANCE” IN KAZAKSHTAN.
- € GOVERNMENT OF KAZAKHSTAN AGREES THAT FSI WILL MAKE A MAJOR PRESENTATION TO MAZHILIS IN CONNECTION WITH CREDIT BUREAU LAW
- € FSI SECURES AGREEMENT IN PRINCIPLE TO SCHEDULE CREDIT BUREAU SHAREHOLDERS’ MEETING IN 1ST QUARTER 2004

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- € NBK AGREES TO DE-LINK PASSAGE OF CREDIT BUREAU LAW FROM EFFORTS TO ESTABLISH A PRIVATE CREDIT BUREAU – SUBJECT TO LEGAL OPINION WHICH FSI IS PREPARING.
- € FSI CONTINUED TO HONE DRAFT CREDIT BUREAU LAW FOR THE GOVERNMENT THROUGH THE REGULAR MEETINGS OF THE BANKERS ASSOCIATION/NBK WORKING GROUP
- € SIGNIFICANT GAINS IN MARKETING CREDIT BUREAU TO NON-FINANCIAL SECTOR
- € GOVERNMENT AGREES TO INCLUDE CONSUMER CONSENT IN DRAFT LEGISLATION AS MEANS TO PROTECT PERSONAL PRIVACY BEFORE TRANSFER OF PRIVATE INFORMATION TO THIRD PARTIES

II. EXECUTIVE SUMMARY

From August 22, 2003 through November 21, 2003, FSI continued to initiate actions to create the framework for a credit reporting system that would meet the needs of Kazakhstan and bring the project from the feasibility/development phase to the implementation phase.

Since the March 2003 Protocol, which confirmed for the first time that Kazakhstan will establish a competitive system of *private* Credit Bureaus, work efforts shifted from the debate over private vs. public Credit Bureau to public education, investor relations, defining the powers and scope of the government Supervisory Body, and finishing the draft law.

FSI continued to expand public awareness by publishing articles in both the local and international press regarding Kazakhstan's Credit Bureau. An article appeared in *Credit Risk International* (London), *Kazakhstani Banks*, and *The Jurist* (See Attachments 1 & 2). Visits to utilities and retailers continue. These organizations may participate in the Credit Bureau system in Kazakhstan, which will prove to be a source of future demand for Credit Bureau services.

Discussions continued with banks on how to improve strategies for SME business and consumer finance given the emergence of a Credit Bureau. FSI continued discussions regarding the development of credit scoring products and other services, such as fraud detection for the banking and insurance sectors.

The position of the NBK will respect to the inclusion of insurance related information in the Credit Bureau database remained unclear. Indications are that insurance data will be a "second step" after inclusion of demographic and credit information in the data base of the credit bureau.

Discussions with potential international investors continued and revolved around the status of the draft law, the business case, and related technical issues. Experian, the IFC

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and CRIF (Italy) have again reconfirmed their willingness to provide technical assistance and/or strategic investment at the right time and under the right conditions. USAID/Pragma introduced the idea of establishing an alliance for Kazakhstan, which was well received by these organizations. Baycorps Advantage (Australia), on the other hand, is not showing interest in the Kazakhstan Credit Bureau project at this time. Kaztelecon has expressed strong support for the Credit Bureau, and continues to indicate its willingness to be an investor. Discussions continue. A full review of the business plan with Kaztelecon is expected.

FSI continued to work to refine the legal framework in order to establish a system of private Credit Bureaus. While the passage of the Credit Bureau Law remained a key focus of efforts from August 22, 2003 through November 21, 2003, the NBK signalled that it is prepared to de-link the passage of the law from the establishment of a Credit Bureau subject to review of legal opinions that Pragma was in the process of preparing. It is expected that the NBK will agree with Pragma's legal opinion that underscores the constitutionality of establishing a private Credit Bureau without the passage of a new law.

During this reporting period, the NBK reconfirmed its position to have one supervisory body although there are voices within the Government that would like to maintain two Supervisory Bodies. The debate over the Supervisory Body is linked to the complex set of laws governing the establishment of the "Informatization Agency" which oversees "data processing". It is clear, however, that the Government understands the link between information flows, on the one hand, a pillar of free market economic systems, and privacy, on the other. It is expected that the "privacy vs. data flows debate" will figure prominently in the upcoming parliamentary debates at the Mazhilis. The Government has requested Pragma to make presentations to the Mazhilis.

The Government agreed to include consumer consent in draft legislation as a means to protect personal privacy before transfer of private information to third parties. Because of the importance of privacy issues given the historical legacy of the former Soviet Union, this agreement must be considered a major policy shift from earlier drafts of the law. During the debate over privacy, FSI reinforced the concept that any credit reporting system must reflect basic principles which underpin a consumer's right to privacy (i.e., the right to obtain a credit report within a reasonable time, at a reasonable cost, and in a reasonable way; the right to dispute data and have it corrected in a timely fashion; the right to know the purpose for data collection; the right to limit the type of data collected, the right to limit its transferability; the right to demand that data be accurate; and the right to know that there are remedies in the event of data misuse) in order to underscore the importance of personal privacy.

There have been no changes in the draft law regarding investment. International and local private investors are welcome to found a Credit Bureau subject to licensing. The Credit Bureau will operate in a competitive free market environment (in other words, there will be no monopoly by the largest banks). Participation of the non-financial sector will be voluntary (although questions regarding possible data fragmentation still remain outstanding). A mandate with respect to the transfer of data to the Credit Bureau by the financial sector remains in place (*provided there is consumer consent*), and both positive and negative information will be included in the database.

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The Credit Bureau working group, which consists of the major banks in Kazakhstan and the NBK, continued to meet on a regular basis to address the principle commercial, technical, and legal issues.

FSI has made little progress in convincing one of the major rating agencies to develop a long-term interest in Kazakhstan. To date, “brand name” agencies remain reluctant to enter the Kazakhstani market although this situation could change suddenly given current macro economic and banking conditions in Kazakhstan.

The objectives for the establishment of the framework for a credit rating agency, as reflected in previous quarterly reports, continue to be to set the stage for industry ratings and for differentiation among various financial instruments such as junk bonds, public securities, and investment grade or high-yield securities. Other objectives are to develop an effective and practical framework for improving the ability of investors to assess bank and corporate risk, including long and medium term debt, commercial paper, bank loans, preferred stock and common equity, and also to develop an effective and practical mechanism for assessing corporate governance, public finance, markets and competition, and sovereign and transfer risk.

Lastly, FSI participated in the tenth anniversary of the Tenge celebrations, giving a speech on the advantages of a Credit Bureau at an event sponsored by Bank CenterCredit.

III. ADMINISTRATIVE MATTERS

None.

IV. DESCRIPTION AND STATUS OF TASKS

Task 1 – Credit Bureau

Defined Activity	Progress Made During Quarter/Proposed Future Actions
<p>PHASE I</p> <ul style="list-style-type: none"> € Complete a feasibility study on the possibility of establishing a Credit Bureau in Kazakhstan € Analyse the legal environment for the creation of a Credit Bureau 	<p>€ COMPLETED - FOR DETAILS SEE 6TH QUARTERLY REPORT</p>
<p>PHASE II</p> <ul style="list-style-type: none"> € Develop a Credit Bureau in Kazakhstan € Develop and Distribute a business plan and a detailed operations/technical implementation plan € Design a marketing and PR campaign € Develop the legislative package and actively resolve any legal issues € Work toward drafting a Credit Bureau law. 	<p>COMPLETED OR INITIATED AS OF NOVEMBER 21, 2003:</p> <ul style="list-style-type: none"> € “KAZAKHSTANI BANKS”, “JURIST” AND “CREDIT RISK INTERNATIONAL” SEPARATELY FEATURE PRAGMA ARTICLE ON KAZAKHSTANI CREDIT BUREAU. € USAID/PRAGMA, EXPERIAN, IFC AND ASSOCIATION OF FINANCIERS OF KAZAKSHTAN DISCUSS IDEA OF “ALLIANCE” IN KAZAKSHTAN. € GOVERNMENT AGREES THAT PRAGMA WILL MAKE A MAJOR PRESENTATION TO MAZHILIS IN CONNECTION WITH CREDIT BUREAU LAW € PRAGMA SECURES AGREEMENT IN PRINCIPLE TO SCHEDULE CREDIT BUREAU SHAREHOLDERS’ MEETING IN 1ST QUARTER 2004 € NBK AGREES TO DELINK PASSAGE OF CREDIT BUREAU LAW FROM EFFORTS TO ESTABLISH A PRIVATE CREDIT BUREAU – SUBJECT TO LEGAL OPINION WHICH PRAGMA IS PREPARING. € PRAGMA CONTINUED TO HONE DRAFT CREDIT BUREAU LAW FOR THE GOVERNMENT THROUGH THE REGULAR MEETINGS OF THE BANKERS ASSOCIATION/NBK WORKING GROUP € SIGNIFICANT GAINS IN MARKETING CREDIT BUREAU TO NON-FINANCIAL SECTOR € PRAGMA COORDINATED RESPONSES TO GOVERNMENT MINISTRIES REGARDING THE DRAFT CREDIT BUREAU LAW
<p>PHASE III</p> <ul style="list-style-type: none"> € Establish a Credit Bureau in Kazakhstan € Create a credit reporting system € Construct a data base 	<p>€ MEETING OF POTENTIAL SHAREHOLDERS ANTICIPATED IN 1ST QUARTER 2004.</p>

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Task 2 – Credit Rating Agency

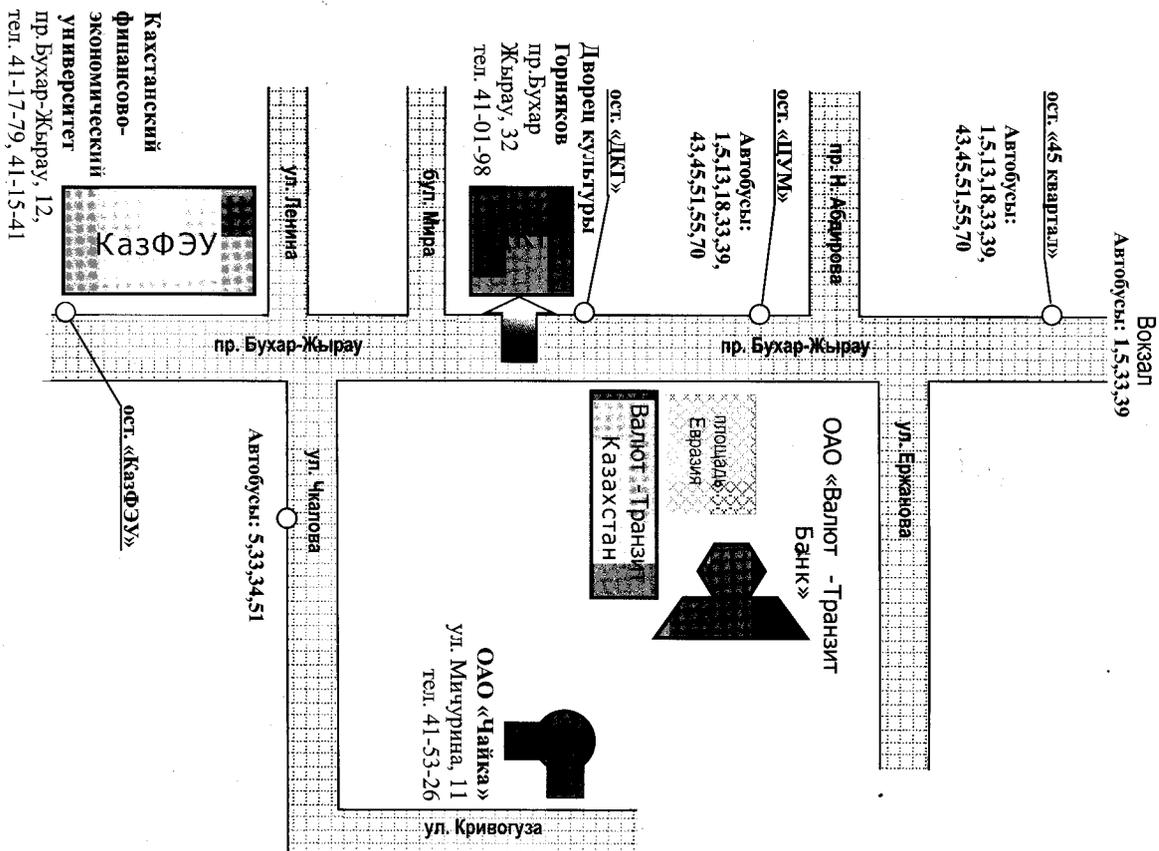
Defined Activity	Progress Made During Quarter/Proposed Future Actions
€ Create conditions and interest favorable to establishing a credit rating agency in Kazakhstan by holding second credit ratings training.	€ NO SIGNIFICANT CHANGE SINCE THE 11 TH QUARTERLY REPORT. NO MAJOR RATING AGENCY SUCH AS MOODY’S OR S&P HAS SHOWN INTEREST IN THE KAZAKHSTANI MARKET DURING THE LAST QUARTER. IT IS EXPECTED THAT INTEREST WILL GROW AS THE ECONOMY CONTINUES TO CONSOLIDATE AND BANK CREDIT EXPANDS.
€ Identify credit agency willing to establish office in Kazakhstan	

LIST OF ATTACHMENTS

1. Article from “*Credit Risk International*” (London)
2. Article from “*Jurist*” (October and November, 2003)
3. Article from “*Kazakhstani Banks*”
4. Program for BankCenter Credit Tenge celebration

OVERVIEW ATTACHMENTS

СХЕМА РАСПОЛОЖЕНИЯ ЦЕНТРОВ ПРОВЕДЕНИЯ КОНГРЕССА



КАЗАКСТАН РЕСПУБЛИКАСЫ

КАЗАКСТАН ЭКОНОМИСТЕР КАУЫМДАСТЫҒЫ

"ВАЛЮТ-ТРАНЗИТ" ҚАРЖЫ-ӨНЕРКӘСІПТІК КАУЫМДАСТЫҒЫ

КАЗАКСТАН ҚАРЖЫ-ЭКОНОМИКАЛЫҚ УНИВЕРСИТЕТІ

ЕУРАЗИЯ ХАЛЫҚАРАЛЫҚ ЭКОНОМИКАЛЫҚ АКАДЕМИЯСЫ

АЙМАҚТЫҚ ДАМУ ИНСТИТУТЫ

**КАЗАКСТАН РЕСПУБЛИКАСЫНЫҢ
ЭКОНОМИКА ЖӘНЕ ҚАРЖЫ КӨКЕЙТЕСТІ
МӘСЕЛЕЛЕРІ**

Халықаралық экономикалық конгрестің

БАҒДАРЛАМАСЫ

25-26 қыркүйек



Ассоциация экономистов Казахстана

ПРОГРАММА

Международного экономического конгресса

**АКТУАЛДЫҒЫ ПРОБЛЕМЫ ЭКОНОМИКИ
И ФИНАНСОВ РЕСПУБЛИКИ КАЗАХСТАН**

25 – 26 сентябрь

Қарағанды қаласы - 2003

ОРГАНИЗАЦИОННЫЙ КОМИТЕТ
Международного экономического конгресса
«Актуальные проблемы экономики и финансов
Республики Казахстан»

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(председатель) докт. экон. наук, профессор
2. Сатыбалдин С.С. – Президент Международной экономической Академии
(сопредседатель) Евразия, докт. экон. наук, профессор, академик НАН РК.
3. Жидкова Т.В. – Исполнительный Директор ФИЛА «Выплог-Транзит»
(сопредседатель)
4. Исабеков М.У. – Пред. Совета ОО «Ассоциация экономистов Казахстана»,
(зам. председателя) проректор по научной работе, канд. техн. наук
5. Сапарова Б.С. – Зам. Пред. Совета ОО «Ассоциация экономистов Казах-
(отв. секретарь) стана», зав. каф. финансов и кредит, канд. экон. наук, до-
цент, КазФЭУ
6. Абдыгалыков М.А. – Ректор Казахстанского финансово-экономического универ-
ситета, канд. биол. наук, профессор
7. Мұраханова С.А. – Зам. Председателя Совета Директоров ОАО «Выплог-
Транзит Банк», канд. экон. наук, доцент
8. Дюсембаев А.Д. – Зав. кафедрой маркетинга и коммерции, докт. экон. наук,
профессор, КазФЭУ
9. Шахметов Б.К. – Пред. Совета Директоров ННП «Выплог-Транзит Фонда»,
канд. техн. наук, доцент
10. Бейсембаев К.М. – Зав. кафедрой естественно-научных дисциплин, канд. Техн.
наук, доцент, КазФЭУ
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ист. наук, доцент, КазФЭУ
12. Коржумбаева З.А. – Зав. кафедрой бухгалтерского учета и аудита, КазФЭУ
13. Таубаев А.А. – Вед. науч. сотруд. Института регионального развития,
канд. экон. наук, доцент
14. Итбаев Н.Ж. – Пред. комитета молодых ученых ОО«Ассоциация эконо-
мистов Казахстана»
15. Шахметова И.С. – Директор по промышленным предприятиям ФИЛА«Выплог-
Транзит»
16. Шабрашина И.Н. – Директор Дворца культуры горняков
17. Ибраева И.Е. – Пред. Правления ОАО «Выплог-Транзит Банк»,
18. Панфилова С.А. – Генеральный директор ТОО «КГ Securities»
19. Каратонысова А.Г. – Преподаватель кафедры «Финансы и кредит», КазФЭУ
20. Айбек С. – Преподаватель кафедры «Финансы и кредит», КазФЭУ

РЕГЛАМЕНТ РАБОТЫ

Международного экономического конгресса «Актуальные проблемы экономики и финансов Республики Казахстан»

25 сентября 2003 г., четверг
первый день

8³⁰-9³⁰ ч. – Регистрация участников конференции
/Дворец культуры горняков, фойе/

ОТКРЫТИЕ КОНГРЕССА: 9³⁰-10⁰⁰ ч.
/Большой зал, Дворец культуры горняков/

Вступительное слово
Президента ОО «Ассоциация экономистов Казахстана»,
докт. экон. наук, профессора Кучуковой Н.К. и
Президента Международной экономической Академии Евразия,
докт. экон. наук, профессора, академика Сатубалдина С.С.
Приглашение состава Президиума конгресса

Приветственные выступления:

Мамраев Б.Б.	Зав. сектором образования и науки отдела внутренней политики Администрации Президента РК; докт. экон. наук, профессор
Бектурганов Н.С.	Вице-Министр МОН РК; докт. хим. наук
Бурляков Л.Н.	Председатель комитета по вопросам регионального развития местного самоуправления Сената Парламента РК
Мухамеджанов К.Е.	Аким Карагандинской области
Бегиев А.А.	Президент ОАО «Валют-Транзит Банк», канд. экон. наук

ПЛЕНАРНОЕ ЗАСЕДАНИЕ

/Дворец культуры горняков/
10⁰⁰-12³⁰ ч.

1. Мировой опыт повышения капитализации банков через рынок ценных бумаг.
А. Бегиев (Беляков), канд. экон. наук, А.Б. Амирова
(ОАО «Валют-Транзит Банк», г. Караганда)
2. Роль науки в реализации Стратегии индустриально-инновационного развития Казахстана.
Мамраев Б.Б., докт. филол. наук, профессор (отдел внутренней политики Администрации Президента РК, г. Астана)
3. Новый этап бюджетной реформы России.
Родионова В.М., д.э.н., профессор, заслуженный деятель науки РФ (Финансовая Академия при Правительстве Российской Федерации, г. Москва)
4. Экономический рост: фондовый рынок для привлечения инвестиций.
Аубакиров Я.А., д.э.н., профессор, академик НАН РК (КазНУ им. Аль-Фараби, г. Алматы)
5. Экономика Казахстана в системе ЕвразЭС и императивы глобализации.
Котанов А.К., д.э.н., профессор, академик НАН РК
(Национальная академия наук Республики Казахстан, г. Алматы)
6. Конкурентоспособный местный бизнес как основа обеспечения устойчивого развития регионов в условиях децентрализации управления.
Бурляков Л.Н. (Комитет по вопросам регионального развития и местного самоуправления Сената Парламента Республики Казахстан, г. Астана),
Бурляков О.Л. (Академия государственной службы при Президенте Республики Казахстан, г. Астана)

7. **О некоторых проблемах межбюджетных
лике Казахстана.**
*Абылхан М. (Комитет по экономике, Сенага Парламента Республики Каза
Ази, Центр исследований развития и
Народной Республики, г. Пекин)*
8. **Краткое изложение опыта КНР по вст
Ян Хайяоань (Институт общественной
Народной Республики, г. Пекин)**
9. **Азиатский финансовый кризис: причи
Шережет А.Д., д.э.н., профессор, акаде
деятель науки и техники СССР, зав. к
Президент Ассоциации бухгалтеров и
«Содружество» (г. Москва, Россия)**
10. **Казахстан: позитивная ситуация в эк
альных проблем.**
*Ван Бинь (Институт общественного
Центр исследований развития при Го
Народной Республики, г. Пекин)*
11. **Внимание банковского сектора на разв
териалах Казахстана).**
Сельчук Дажанер, д.э.н., профессор (
12. **Концепция организации питания мал
слоев населения.**
*Пивоваров В.И., д.э.н., профессор (Ро
Академия им. Г.В. Плеханова, г. Моск*
13. **Проблемы формирования и исполнен
рынка.**
*Фрагаченко Н.Т., д.э.н., профессор, ака
Украины (Институт экономики и пр
Украины, г. Киев, Украина)*
14. **Enhancing Industrial Competitiveness: A
the Sarabities Model to Kazakhstan /
конкурентоспособности: Эмпирическо
собностей к Казахстану/.**
*Darbala Darji /Данбала Данджу/, пр
институт менеджмента, экономик
Нигерия)*

Обеденный перерыв – 12⁴⁵ - 13³⁰ ч.

Ресторан-клуб «Звездное рандеву»,
ул. Гоголя, 34 А, тел. 42-12-17, 42-12-16

СЕКЦИОННЫЕ ЗАСЕДАНИЯ

14⁰⁰ - 18⁰⁰ ч.

СЕКЦИЯ № 1

Экономическая интеграция и устойчивое развитие в условиях глобализации: опыт, проблемы, пути решения.

Председатель секции: д.э.н., проф. Самубадин С.С.
Сопредседатели: д.э.н., проф. Дюсембаев А.Д.,
к.э.н., доц. Омурбаев С.М.,
к.э.н., доц. Сапарова Б.С.,
Коржумбаева З.А.

Секретари: к.э.н. Смагулова Р.Е., Аканбаева Т.А.

Подсекция № 1-1
Экономическая интеграция и устойчивое развитие, глобализация – перспективы и проблемы

Председатель секции: д.э.н., проф. Самубадин С.С.
Сопредседатели: к.э.н., доц. Сапарова Б.С.
Секретарь: Аканбаева Т.А.

1. Экономический кризис в новых индустриальных странах и пути их возрождения.
Самубадин С.С. (Казахстанский институт менеджмента, экономики и прогнозирования, г. Алматы)

2. Экономические закономерности инновационно-технологического развития экономики
Алимбаев А.А. (Институт регионального развития, г. Караганда)

3. О проблемах устойчивого экономического развития Казахстана и угрозах, возникающих на этом пути.
Есентугелов А. д.э.н., профессор (Министерство экономики и бюджетного планирования Республики Казахстан)

4. Мировой рынок и приоритеты структурного преобразования национальной экономики.
Алишанов Р.А., д.э.н., профессор (Президент Ассоциации вузов Республики Казахстан, ректор университета «Туран», г. Алматы)

5. Экономическая интеграция в Центральной Азии: состоится ли общий рынок региона?
Самубадин С.С. (Казахстанский институт менеджмента, экономики и прогнозирования, г. Алматы)

6. Проблемы интеграции Казахстана в условиях глобализации экономики.
Ахметкашиев Б.Р. (Каспийский общественный университет, Алматы)

7. Экономические связи Казахстана и России.
Юсупбаев А.А. (Международная экономическая академия Евразия, г. Алматы)

8. Межгосударственный опыт использования офшорных зон в интересах государства.
*Карп М.В. (Государственный университет управления, Москва, Россия),
Колесова И.В. (Севастопольский национальный технический университет, г. Севастополь, Украина)*

9. Обеспечение экономического роста в Казахстане на новом его этапе.
Кенжегузин М.Б. (Институт экономики Министерства образования и науки Республики Казахстан, г. Алматы)

10. Проблемы национальной экономики в условиях глобализации.
Карымсақов Е.А. (Институт регионального развития, г. Караганда)

11. Методология определения экономического роста.
Айнабеқ К.С. (Центр.-Каз. НИИ актуальных проблем, г. Караганда)
12. Перспективы внедрения опыта России по организации питания «Бистро» в Казахстане в условиях глобализации.
Павловаров В.И., д.э.н., профессор (Российская Экономическая Академия им. Г.В. Плеханова, г. Москва)
13. Новые горизонты глобализации экономики Казахстана.
Досебаев А.Д. (Казахстанский финансово-экономический университет, г. Караганда)
14. Государственное регулирование экономики Казахстана в условиях рыночных отношений.
Мынбаев К.Т. (Казахстанский институт менеджмента, экономики и прогнозирования, г. Алматы)
15. Структурные изменения конечного спроса в условиях глобализации (на материалах Республики Казахстан).
Алтысбаева С.Н., Тазабеков Д.И. (Карагандинский государственный университет им. Е.А. Букетова, г. Караганда)
16. Проблемы создания системы аннуитетного страхования.
Хакимжанов С. (Казахстанский институт менеджмента, экономики и прогнозирования, г. Алматы)
17. Проблемы внедрения интернет-технологий на Казахстанском рынке ценных бумаг.
к.э.н., доцент Сапарова Б.С. (Казахстанский финансово-экономический университет, г. Караганда), Сапарова А.А. (Казахстанский институт менеджмента, экономики и предпринимательства, г. Алматы)
18. Роль учета в экономической интеграции на постсоветском пространстве.
Нургазина Ж.К. (Институт экономики и финансов КазЭУ им. Т. Рысқұлова, г. Астана)
19. Глобализация: источники, преимущества и издержки.
Чернова А.А. (ООО «PROMPT-LINE LTD», г. Караганда)
20. Глобализация – феномен современности?
Аймағамбетов А.К. (Карагандинский государственный университет им. Е.А. Букетова, г. Караганда)
21. Формирование системы государственного регулирования раз-

- влия малого предпринимательства в условиях глобализации.
Билалов А.Р. (Российская Экономическая Академия им. Г.В. Плеханова, г. Москва)
22. The causes and implications of dollarization /Причины и последствия долларизации.
Sharon Eicher / Шерэн Айкер/ (США)
 23. Does devaluation improve trade balance? /Улучшает ли девальвация торговый баланс?
Алтайана Райна /Артаирана Ратхид/ (США)
- Подсекция № 1-2** Проблемы внутренней интеграции экономики Казахстана и научно-образовательная деятельность в условиях глобализации.
д.э.н., проф. Досебаев А.Д.
Сопредседатели: *к.э.н., доц. Омырбаев С.М., Коржұмбаева З.А.*
Секретарь: *к.э.н. Смазұлова Р.Е.*
1. Основные направления региональной политики Республики Казахстан.
Тоқсанова А.Н., Джамширова Г.З. (Кокшетауский институт экономики и менеджмента, г. Кокшетау)
 2. Влияние международных экономических интеграций и союзов на развитие фондового рынка Республики Казахстана.
к.э.н., доцент Сапарова Б.С. (Казахстанский финансово-экономический университет, г. Караганда), Сапарова А.А. (Казахстанский институт менеджмента, экономики и предпринимательства, г. Алматы)
 3. Специальная экономическая зона “Морпорт Актау” - главное звено развития экономики региона.
Турекүлова Д.М., Кемелбаев К.М. (Государственный университет им. Ш.Е. Есенова, г. Ақтау)
 4. Региональные аспекты экономической реформы в Казахстане.
Романько Е.Б. (Карагандинский государственный университет им. Е.А. Букетова, г. Караганда)

5. Децентрализация управления и реформа государственной службы в Республике Казахстан.
Карымбаева Г.А. (Казахстанский финансово-экономический университет, г. Караганда)
6. Экономическая модель местного самоуправления.
Кубаев К.Е. (Казахский национальный университет им. Аль-Фараби, г. Алматы)
7. Организация местного самоуправления: зарубежный опыт.
Кудайбергенова С.К. (Карагандинский Экономический Университет Казпотребсоюза, г. Караганда)
8. Проблемы трансформации экономических институтов в постсоветском пространстве.
Есенғараев Е.Ж. (Карагандинский государственный университет им. Е.А. Букетова, г. Караганда)
9. Условия создания профессионального государства.
Цой В.И. (Карагандинский государственный технический университет, г. Караганда)
10. Региональные особенности подготовки экономистов.
Тажыбаев С.Д. (Таразский государственный университет)
11. Проблемы образования в условиях глобализации.
Ким Н.И. (Казахстанский финансово-экономический университет, г. Караганда)
12. Интеграция в мировое образовательное пространство через повышение качества образования.
Кулмагамбетов И.Р., Куамбекова Р.А., Умбеталина Н.С. (Карагандинская государственная медицинская академия, г. Караганда)
13. Новые образовательные технологии – потребность рыночной экономики.
Сазинов А.С. акад. НАН РК, д.т.н., профессор,
Досханов А.Х. (Карагандинская государственная медицинская академия, г. Караганда),
Бейсембаев М.К., Исдабеков М.У. (Казахстанский финансово-экономический университет, г. Караганда)
14. Состояние и перспективы подготовки и сертификации специалистов по управлению проектами и программами в России.
В.И. Воронцов, Г.И. Секлетова, А.С. Шенков (ГАСИС, г. Москва,

15. Стратегия развития подготовки профессиональных проектных менеджеров на Украине
Россия)
Полышаков В.И., д.т.н., профессор, академик АН Украины,
Морозов В.В., Шилевой В.Д. (Институт экономики и права «КРОК», г. Киев, Украина)
16. Предпосылки и пути развития многоуровневой системы высшего медицинского образования в Казахстане.
Кулмагамбетов И.Р., Куамбекова Р.А., Досмагамбетова Р.С., Досханов А.Х. (Карагандинская государственная медицинская академия, г. Караганда)
17. Перспективы управления проектами в индустриально – инновационном развитии экономики Республики Казахстан.
Савченко Л.И. (Казахстанская Ассоциация Управления Проектми, г. Алматы)
18. Проблемы формирования в Республике Казахстан национальной инфраструктуры управления проектами и программами по международным стандартам.
Затолокин В. (Консорциум «Project Management Center» – Университет международного бизнеса и компания «ВМД-Leasing», Союз проектных менеджеров Республики Казахстан, г. Алматы)
19. Вариативная система требований в практике преподавания иностранного языка.
Григорьева Т.Н. (Казахстанский финансово-экономический университет, г. Караганда)
20. Аспекты когнитивного метода обучения иностранным языкам.
Слаббекова З.Т. (Казахстанский финансово-экономический университет, г. Караганда)
21. Совершенствование качества деятельности железнодорожных вузов через рейтинг.
Матвейчук О.В. (Сибирский государственный университет путей сообщения, г. Новосибирск, Россия)

СЕКЦИЯ № 2

Индустриально-инновационное развитие и экономическое стимулирование модернизации, диверсификации в целях подъема аграрного сектора и повышения конкурентоспособности казахстанской экономики.

Председатель секции: д.э.н., проф. Дрисжд
Сопредседатель: к.т.н., доц. Бейсембаев К.М.
Секретарь: Тасымова М.Т.

Подсекция № 2-1 Индустриально-инновационное развитие и повышение конкурентоспособности казахстанской экономики.

Председатель секции: д.э.н., проф. Дрисжд
Сопредседатель: к.т.н., доц. Бейсембаев К.М.
Секретарь: Тасымова М.Т.

1. О роли Стратегии индустриально-инновационного развития Республики Казахстан в обеспечении устойчивого экономического роста.

Кзымбаев А.К. (Министерство индустрии и торговли Республики Казахстан, г. Астана)
Республики Казахстан, г. Астана)
2. Железнодорожный потенциал транзитных возможностей Казахстана.

Самубадына Ж.С. (ЗАО Национальная компания «Казакстан Темір Жолы», г. Астана)
3. Таможенная политика как составляющая часть индустриальной политики Республики Казахстан.

Жумабеков Б.А. (Таможенное управление по Карагандинской области).

4. Финансовое стимулирование и реструктуризация угольной отрасли в Карагандинской области и её роль в экономике Казахстана.
Дрисжд Н.А. (Карагандинский государственный технический университет, г. Караганда)

5. Конкурентоспособность казахстанской экономики в условиях глобализации.

Ашимбаева А.Т. (Институт мирового рынка, г. Алматы)
6. Основные направления индустриально-инновационного развития Карагандинской области до 2015 года.

Сыздықов Е.К., Усенбеков М.С. (Главное управление экономики и развития предпринимательства при Акиме Карагандинской области, г. Караганда)

7. Формирование новой финансово – промышленной структуры Караганды.

Сағинов А.С., акад. НАН РК д.т.н., профессор,
Бейсембаев К.М. (Казахстанский финансово-экономический университет, г. Караганда)

8. Управление инновациями на предприятии.
Аубакирова Г.М. (Карагандинский государственный технический университет, г. Караганда)

9. Механизм обновления управления национальной экономикой.
Никафорова Н.В. (Казахский экономический университет им. Т. Рыскулова, г. Алматы)

10. Развитие научного потенциала региона: проблемы финансирования.
Габдуллина Б.Т. (Институт регионального развития, г. Караганда)

11. Либерализация рынка услуг телекоммуникаций: реалии и перспективы.
Алимбаева А.Б. (Карагандинская областная дирекция телекоммуникаций ОАО “Казактелеком”, г. Караганда)

12. Консалтинговая деятельность в Республике Казахстан как фактор совершенствования инновационных процессов.
Эрназаров Т.Я., Тимков А.А. (Павлодарский государственный университет им. С. Торайғыровов)

13. Внедрение результатов НИР в производство.
Коянбаев У.С. (ТОО «Научно-производственный центр промышленной математики», г. Караганда)

14. Инновационная деятельность в условиях конкуренции.
Кузбаева Г.Х. (Карагандинский экономический университет Казпотребсоюза, г. Караганда)

15. Региональные инновационные программы: механизм управления и оценка риска.
Малышев Н.П. (Восточно-Казахстанский государственный технический университет, г. Усть-Каменогорск)
16. Особенности формирования системы управления автомобильными транспортом Казахстана.
Есжанов С.К. (Центр пассажирских перевозок, г. Астана)
17. Техническое и экономическое состояние автотранспортного комплекса Республики Казахстан.
Онаев Ж.К. (ЗАО «Трансагентство», г. Караганда)
18. Экономические и социальные аспекты дорожного строительства в Казахстане
Тонкаева Ю.А. (Карагандинский государственный университет им. Е.А. Букетова, г. Караганда)
19. Пароструйные технологии, аппараты и комплексы новой привлекательная ниша экономики Казахстана.
Халиманов Х.Ж. (Институт прикладной математики МОН РК, г. Караганда)
20. Исследование трудоемкости восстановления элементов секций механизированных крепей при их эксплуатации.
Жетесов С.С., Жетесова Т.С. (Карагандинский государственный технический университет)
21. Построение математической и девиаторной реологической модели.
Шахметов Б. К., Исазулов А.З., Куликов В.Ю., Согурина О.С. (Карагандинский государственный технический университет)
22. Алгоритм решения плоской задачи теории ползуности горных пород методом конечных элементов.
Тулганов С. К. (Карагандинский государственный технический университет)
23. Формирование и обработка подземных техногенных месторождений.
Беркалиев Б.Т., Камаров Р.К., Камаров Н.Р. (Карагандинский государственный технический университет)
24. Методические основы расчета экономического ущерба предприятый из-за нарушений правил по охране труда.
Акимбеков А.К., Харьковский В.С., Самтарова Т.С. (Карагандинский государственный технический университет)

25. Методологические проблемы перехода к информатизации общества.
Абышев А.А. (КазНУ им. Аль-Фараби, г. Алматы)
26. Электронный бизнес в современном Казахстане.
Когай Г.Д., Султанова Б.К. (Карагандинский государственный технический университет)
27. Информационное обеспечение охраны окружающей среды.
Утлыбаева М.П. (Казахтисинский финансово-экономический университет, г. Караганда)
28. Деятельность иностранных инвесторов в Карагандинской области.
Қушумбаев М.К. (Казахстанско-Российский университет, г. Караганда)
29. Инновационные технологии в экономической информатике.
Матаев Ж.С., Алимов Б.К. (Компания “Samsoft”, г. Караганда)
30. Оценка эффективности инвестиционного обеспечения ресурсосбережения.
Молдахметов Р.К. (Костанайский государственный университет им. А. Байтұрсынова)
31. Методология оценки, перспективы развития ювелирной промышленности в Республике Казахстан.
Сүлейменова А.С., Рыженков О.Б., Усов К.Б. (ОАО «Валом-Транзит Золото», г. Караганда)
32. Определение параметров импульсного уплотнения формовочной смеси.
Бейсембаев К.М., Исабеков М.У. (Казахстанский финансово-экономический университет, г. Караганда)
33. Определение параметров взрывной нагрузки на процесс уплотнения печено-глинистой смеси.
Шахметов Б. К., Исазулов А.З., Куликов В.Ю., Согурина О.С. (Карагандинский государственный технический университет)
34. Экспериментальные исследования по влиянию площади прорема, давления разгерметизации и массы покрытия на параметры взрыва угольной пыли
Обухов Ю.Д., Каракулова М.Н. (Карагандинский

государственный технический университет),

Белгев В. В. (Қарағандық металлургиялық институт, г. Темиртау)

35. Методические подходы к определению величин платежей за право пользования недрами.

Кенжебеков Н. Д. (Институт регионального развития, г. Караганда)

36. Классификация затрат на производство химической продукции.

Есенгеренова Л. Р. (Институт экономики и финансов ҚазЭУ им. Т. Рысқұлова, г. Алматы)

37. Влияние создания розничного рынка электроэнергии на повышение конкурентоспособности казахстанской экономики.

Жарұлов А. А. (Алматылық институт энергетика и связи, г. Алматы)

38. Социальные аспекты сферы недропользования.

Самтаров С. С. (Министерство энергетика и минеральных ресурсов, г. Астана),
Ақымбеков А. К., Самтарова Т. С. (Қарағандық қоспа қорытынды техникалық университет)

39. Проблемы освоения месторождений с малыми запасами в 30-летоодобыче и пути их решения.

Толеруов Б. (Министерство энергетика и минеральных ресурсов, г. Астана)

Подсекция № 2-2	Экономическое стимулирование модернизации и диверсификации в целях подъема аграрного сектора.
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Конференц-зал

«Валют-Транзит

Қазақстан», 8 этаж

Председатель секции:

д.м.н., проф. Досаханов А. Х.

Сопредседатель:

Қим Д. Б.

Секретарь:

Джамбулбаева А. М.

1. Социально-экономические аспекты развития сельских территорий Республики Казахстан

Оспанов Б. С. (Министерство сельского хозяйства Республики Казахстан, г. Астана)

2. Проблемы развития АПК Казахстана в условиях рыночных отношений.

Самұбаддин А. А. (Республиканская политическая партия «Отан», г. Алматы)

3. Валют-Транзит Агропром в свете индустриально-инновационного развития АПК РК.

Қим Д. Б. (Валют-Транзит Агропром, г. Караганда)

4. Проблемы и перспективы развития легкой промышленности Казахстана.

Омарова К. Ж. (Международный Казахско-Турецкий Университет, г. Туркестан)

5. Питание человека – понятие экономическое: о целесообразности производства ответственных БАД.

Абдуллабекова Р. М., Досаханов А. Х. (Қарағандық қоспа қорытынды медицина академия)

6. Качество продукции пищевой промышленности как один из показателей конкурентоспособности предприятий.

Терехин С. П., Хан А. В. (Қарағандық қоспа қорытынды медицина академия),
Козлов А. С. (Департамент государственного санитарно-эпидемиологического надзора, г. Караганда)

7. Вопросы совершенствования экономического механизма хозяйствования в сельскохозяйственных формированиях.

Турмаханбетова Ш. Ш. (Министерство образования и науки Республики Казахстан, г. Астана)

8. Основные направления государственного регулирования импортозамещения легкой промышленности в Казахстане.

Тулештова А. С. (Южно-Казахстанский Государственный Университет им. М. Ауэзова, г. Шымкент)

9. Развитие интеграционных процессов в молочно-продуктовом комплексе.

Рахимбекова С. Т. (Объединение юридических лиц «Ассоциация производителей молока и молочных продуктов Карагандинской области», г. Караганда)

10. Экономическая среда как условие развития аула.

Алибаева Г. М. (Алматылық Университет технология и бизнеса)

Баймағамбетова Д. Н. (Алматылық институт энергетика и связи, г. Алматы)

11. Фаст фуд – современный путь развития общественного пита-

- ния.
- Пивоваров К.В. (Российская экономическая академия им. Г.В. Плеханова, г. Москва)
12. Проблемы развития малого и среднего бизнеса и пути их решения (опыт крестьянского хозяйства).
- Джунусов С.С. (Крестьянское хозяйство «Сүйк-Сү», Карагандинская область)
13. Пути оптимизации в решении проблем села.
- Адыкымова Ж.Д. (Карагандинский экономический университет Казпотребсоюза, г. Караганда)
14. Развитие аграрного сектора экономики в рамках социальной политики государства.
- Мухтартеги А. (ТОО МКО “Валют-Транзит Микрокредит”, г. Караганда)
15. Пути совершенствования сетевого маркетинга в сельском хозяйстве.
- Башарова Ж.Б. (Казакстанский финансово-экономический университет, г. Караганда)

СЕКЦИЯ № 3

Социальная политика государства в условиях рыночной экономики.

- Конференц-зал
«Валют-Транзит
Казахстан», 6 этаж
- Председатель секции:
Сопредседатели:
- д.э.н, проф. Алимбаев А.А.
д.э.н, проф. Алымбаева С.Н.,
к.и.н, доц. Кухушкына А.Р.
- Секретарь:
Коваленко Е.И.

1. Человеческий капитал в современной рыночной экономике.
- Кажымурат К., Симникова Е.С. (Международная экономическая академия Евразия, г. Алматы)
2. Государственное планирование и управление в системе рыночной экономики.
- Туркешбаев Э.А. (Национальная академия наук Республики Казахстан, г. Алматы)

3. О реализации государственной социальной политики в Казахстане.
- Султингазин А.Ж. (Счетный комитет по контролю за исполнением Республиканского бюджета, г. Астана)
4. Влияние бедности, безработицы и коррупции на экономическую активность в Казахстане.
- Кист В.Э. (Сенат Парламента Республики Казахстан, г. Астана)
5. Состояние и развитие системы социального партнерства в Республике Казахстан.
- Притворова Т.П., Кыстаубаева М. (Институт регионального развития, г. Караганда)
6. Трансформация неформального сектора экономики - путь к смягчению социальной дифференциации в уровне жизни.
- Шелемenceва В.П. (Павлодарский государственный университет им. С. Торайғырова)
7. Социально-экономическая эффективность: известная истина и сущность противоречий.
- Исбаев Н.Ж. (Институт регионального развития, г. Караганда),
Шинарченко О. (Казакстанский финансово-экономический университет, г. Караганда)
8. Проблемы технологии экономических моделей социальной сферы.
- Смадулова Р.Е. (Казакстанский финансово-экономический университет, г. Караганда)
9. Кризисы в социально-экономическом развитии общества.
- Курманбаев С.К., Курбанов С.К. (Семипалатинский государственный университет им. Шакарима)
10. Проблемы экономической этики и морали в рыночной экономике.
- Ким Б.И. (Костанайский институт Казакстанско-Российского университета)
11. Психологические аспекты социально-экономического реформирования.
- Амирова Б.А., Кабакова М.П. (Карагандинский филиал ОО «Национальной Ассоциации психологов Казахстана»)

12. Проблемы занятости населения: гендерный аспект.
Кукушкина А.Р. *Казахстанский финансово-экономический университет*, г. Караганда)
13. Молодежная политика в Республике Казахстан: проблемы и пути реализации.
Абдикаликова А.Д. (*Казахстанский финансово-экономический университет*, г. Караганда)
14. Молодежь Казахстана в зеркале глобальных перемен.
Ни Е.В., (Ernst & Young LLP, Канада),
Ди Д.А. (*Казахстанско-Российский Университет*, г. Караганда)
15. Актуальные проблемы женской занятости в современной экономической среде.
Абдрзакова М.К. (*Карагандинский Государственный Университет им. Е.А. Букетова*)
16. Некоторые проблемы формирования патриотизма в студенческой среде.
Молдашева А.Т. (*Казахстанский финансово-экономический университет*, г. Караганда)
17. Социальная работа как особый вид деятельности.
Коваленко Е.И. (*Казахстанский финансово-экономический университет*, г. Караганда)
18. Физическое воспитание как необходимое условие формирования будущей специальности.
Константинова Н.В. (*Казахстанский финансово-экономический университет*, г. Караганда)
19. Социальная структура Казахстана в условиях перехода к рынку.
Нурмуханов Г.С. (*Казахстанский финансово-экономический университет*, г. Караганда)
20. Некоторые проблемы социализации личности в контексте экономической психологии.
Мағзұмова Н.К. (*Казахстанский финансово-экономический университет*, г. Караганда)
21. Профессиональная направленность и трудоустройство выпускников высшей школы.
Калеева Г.А. (*Институт “Жетісу”, г. Тавдықорған*)

СЕКЦИЯ № 4

Конференц-зал ОАО
«Чайка»

Проблемы и перспективы развития финансово-кредитной системы и межбюджетных отношений в Республике Казахстан.

Развитие финансового рынка Казахстана и региональной инфраструктуры.

Председатель секции:
Сопредседатели:

д.э.н., проф. Кучукова Н.К.
к.э.н., доц. Мурзаханова С.А.,
Ибраева И.Е.

Секретарь:

Шакирова Г.А.

1. Стимулирование инвестиций и повышение конкурентоспособности казахстанской экономики.
Кучукова Н.К. (*Сенат Парламента Республики Казахстан*, г. Астана)
2. Денежное обращение и экономический рост.
Баймуратов У.Б., чл-корр. НАН РК, д.э.н., профессор,
Амангельдиев Б.Р., к.т.н. (НИИ финансово-банковского менеджмента при КазЭУ им. Т. Рыскулова, г. Алматы)
3. Валютный рынок: современное состояние, тенденции.
Сейткасымов Г.С., д.э.н., профессор, член-корр. НАН РК
(Казахский экономический университет им. Т. Рыскулова, г. Астана)
4. Влияние денежно-кредитной политики на экономический рост в Казахстане.
Елемесов Р. Е., Смағұлова Ш.А. (*Казахский национальный университет имени аль-Фараби*, г. Алматы)
5. Проблемы планирования доходов в местные бюджеты.
Жұйрықов К.К. (*Международная экономическая академия Евразия*, г. Алматы)
6. Проблемы управления ликвидностью банков.
Хамитов Н.Н. (*Казахский экономический университет им. Т. Рыскулова*, г. Алматы)
7. Бюджет Республики: тенденции и проблемы.
Зейнелъ-абдин А.Б., д.э.н., профессор (*Алматы Семейного Комитета при Президенте Республики Казахстан*, г. Астана)

8. Вопросы межбюджетных отношений в Республике Казахстан. Нурмуов А.А. (Счетный комитет по контролю за исполнением Республиканского бюджета, г. Астана)
9. Программа USAID по развитию финансового сектора в Казахстане. Семижонов В.В. (Корпорация Прогма/USAID, г. Алматы)
10. Проблемы налоговой системы Республики Казахстан и направления их совершенствования. Ермекова Б.Ж. (Казахский Национальный Университет им. Аль-Фараби, г. Алматы)
11. Финансово-кредитный механизм в рыночной экономике Казахстана и эффективность его использования. Исмакова З.Д. (Карагандинский экономический университет Казпотребсоюза)
12. Финансирование инновационной деятельности: закрытые павые инвестиционные фонды особо рискованных (венчурных) инвестиций. Бахарова О.В. (ЗАО ИК “Элмит”, Россия), Загидуллина Г.М., д.э.н., профессор, Устинов А.Э., к.т.н. (Казанская Архитектурно-строительная академия, г. Казань, Россия)
13. Существование и её взаимосвязь с аудиторским риском. Дюсембаев К. (Аудиторская фирма “Айарит”, г. Алматы)
14. Некоторые аспекты дальнейшего совершенствования денежно-кредитной политики Казахстана. Жұртубаев С. Б. (Алматынский городской филиал ГУ «Национальный банк РК») «Национальный банк РК»
15. Теоретические основы межбюджетных отношений. Омарбаев С. М. (Национальный центр государственных стандартов образования и тестирования, г. Астана)
16. Местные бюджеты в бюджетной системе Республики Казахстан. Баймухамбетова А.С. (Карагандинский государственный университет им. Е.А. Букетова)
17. Реализация бюджетной политики на укрепление обороноспособности страны. Харасова М.Ш. (Финансовая служба войсковой части 45934, г. Караганда)

18. Повышение роли региональных банков в развитии реального сектора экономики. Қарбаева А. (Институт регионального развития, г. Караганда)
19. Эффективность управления финансовыми результатами коммерческих банков Казахстана. Арынова Ж.З. (Казахстанский финансово-экономический университет, г. Караганда)
20. Валютная политика Национального Банка Казахстана в новых условиях. Байманова Ж.К. (Центральный филиал ГУ «Национальный банк Республики Казахстан», г. Астана)
21. Проблема конвертируемости национальной валюты Республики Казахстан. Ибраева А.М. (Карагандинский экономический университет Казпотребсоюза)
22. Финансовый контроль в развитых странах. Қудженова Д.Г. (Карагандинский экономический университет Казпотребсоюза)
23. Банковские инновации – важнейшая составляющая в деятельности современных коммерческих банков Казахстана. Салимова Ж.Д. (Карагандинский экономический университет Казпотребсоюза)
24. Активизация банковского участия в кредитовании сельскохозяйственных предприятий. Шахарова А.Е. (КазНИИ Экономики АПК и развития сельских территорий, г. Алматы)
25. Рычаги кредитования малого и среднего бизнеса. Ахметов С. (ОАО «Народный Банк Казахстана», г. Алматы)
26. Привлечение иностранных инвестиций в экономику Республики Казахстан. Бурнатова О.В. (ЗАО НКУПА “Актив-Инвест”, г. Караганда)
27. Вопросы актуарной оценки накопительных пенсионных фондов. Тамтимбетова Ж.К. (Карагандинский экономический университет Казпотребсоюза)
28. Перспективы развития профессиональных пенсионных систем

в Казахстане.

- Ақшешев А.С. (Институт регионального развития,
г. Караганда)
29. Роль компаний по управлению пенсионными активами в развитии рынка ценных бумаг Казахстана.
Куржанкеева Е.Д. (Карагандинский экономический университет
Казпотребсоюза)
30. Рынок ценных бумаг – как часть финансового рынка.
Ақанбаева Т.А. (Казахстанский финансово-экономический
университет, г. Караганда)
31. Прогносы ожидания и проблема асимметричности информации современного фондового и валютного рынков Казахстана.
Омаров А.К. (Казахстанский финансово-экономический
университет, г. Караганда)
32. Роль почтово-сберегательной системы в развитии рынка финансово-банковских услуг населению в Казахстане.
Арыстанов А.К. (ОАО «Казпочта», г. Алматы)
33. О применении отдельных финансовых коэффициентов.
Исхакова М. (АО «КЕГСОС», г. Алматы)
34. Необходимость страховой медицины для системы финансирования здравоохранения в Республике Казахстан.
Аубакирова А.Т. (Карагандинский экономический университет
Казпотребсоюза)
35. Развитие несырьевых отраслей в нефтегазовом комплексе Казахстана в рамках финансово-промышленных групп.
Мурафих А.Т. (Карагандинский государственный университет
им. Е.А.Букетова)
36. Перспективы развития технологии банковских услуг в Республике Казахстан.
к.э.н., доцент Сапарова Б.С. (Казахстанский финансово-экономический университет, г. Караганда),
Сапарова А.А. (Казахстанский институт менеджмента,
экономики и предпринимательства, г. Алматы)
37. Структурное реформирование экономики Республики Казахстан.
Павылхириева Г.Т. (ОАО Корпорация «Ордабасы», г. Алматы)
38. Особенности формирования и использования финансовых ин-

СТРУМЕНТОВ.

Байганин Е.М. (АО «KIB Asset Management», г. Алматы)

39. Факторы развития рынка корпоративных ценных бумаг в Республике Казахстан.
Бегтемисова С.Т. (ТОО «Альянс ИнвестМенеджмент»,
г. Алматы)
40. Определение доходов по финансовой отчетности.
Абдыманиязов А. (Ассоциация бухгалтеров и аудиторов
Республики Казахстан, г. Алматы)
41. Банковский кредит и его роль в развитии предприятия.
Надыров А.Ф. (Казахстанско-Российский университет,
г. Караганда)
42. Тенденции развития страхового рынка Республики Казахстан на современном этапе.
Попкова М.Н. (ЗАО Страховая Компания «Валют-Транзит
Полис», г. Караганда)
- СЕКЦИЯ № 5**
- | | |
|---|---|
| Конференц-зал
ОАО «Валют-Транзит
Банк» | Проблемы развития малого и среднего бизнеса и пути их решения.
Антимонопольная политика и конкуренция. |
| Председатель секции:
Сопредседатель:
Секретарь: | д.э.н., проф. Тоқанова А.Н.
к.т.н., доц. Шахметов Б.К.
Арынова Ж.З. |
1. 1000 Voices Project.
Clayton T. (USA Peace Corps)
2. Региональная система управления предпринимательством (зарубежный опыт).
Тоқанова А.Н. (Кокшетауский институт экономики и менеджмента)
3. Использование инновационного преимущества малого предпринимательства.
Таубаев А.А., Мурзатов А.А. (Институт регионального развития, г. Караганда)

4. Зарубежнй опыт развития малого и среднего инновационно-предпринимательства.
*Шахматов Б.К. (Қарағандық госдарственнй технйескй университет),
Улыбышев Д.Н. (Институт региональнго развития,
г. Қарағанды)*
5. О структуре этики менеджмента.
Осиқ Ю.И. (Институт региональнго развития, г. Қарағанды)
6. Предпринимательство и бизнес в Қазақстане.
*Адьяқамова Ж.Д. (Қарағандық экономйескй университет
Қазмтрбесоюзд)*
7. Орта және шағын бизнесті мемлекеттік қолдау: мәселелер мен нәтижелер.
*Жұмашев Б.К. (ЖШС «Валом – Транзит Домбард»,
Қарағанды қ.)*
8. О некоторых проблемах поддержки и развития малого и среднего бизнеса.
Нарембеков Е.К. (КГП “Бизнес-инкубатор”, г. Қарағанды)
9. Финансирование малого и среднего бизнеса на примере ОАО «Народный банк Казахстана»
Салықова Т.С. (Қоқшетаудық институт экономика и менеджментд)
10. Проблемы развития малого и среднего бизнеса и пути их решения.
Жонкин Т.Р. (Главное управление экономика и развития предпринимательства при акиме Қарағандық облыстд)
11. Кредитование малого бизнеса через микрокредитные организации.
Волобуева Л.С. (ТОО “Микрокредитная организация “Валом-Транзит Микрокредит”, г. Қарағанды)
12. Кредитование малого бизнеса в Қарағандық облыстд.
*Улыбышев Д.Н. (Институт региональнго развития,
г. Қарағанды)*
13. Формы финансирования малого инновационного бизнеса в США.
*Шақирова А.К. (Институт региональнго развития,
г. Қарағанды)*

14. Принципы и направления формирования внешней среды предпринимательства.
Былалов А.Р. (Российская Экономйеская Академия им. Г.В. Плеханова, г. Москва)
15. О развитии сельской кредитной кооперации.
Амагамбетова Г.Е. (Қарағандық экономйескй университет Қазмтрбесоюзд)
16. Предпосылки к созданию кредитной кооперации в сельском хозяйстве.
*Абеурова Ш.М. (Қарағандық экономйескй университет
Қазмтрбесоюзд)*
17. Пути легализации имущества предпринимателей Республики Казахстан.
*Томпиев М.К. (Научно-исследовательский институт
финансово-банковскогго менеджментд при ҚазЭУ им.
Т. Рысқұлова, г. Алматы)*
18. Тарифные и нетарифные барьеры развития малого и среднего бизнеса и конкуренция на внутреннем рынке.
*Жолдаспаев С.Т. (ТОО “Қарағандық институт качества”,
г. Қарағанды)*
19. Қазақстанның электрэнергия бөлшек сауда рыногын ұйымдастыру мен жүзеге асуын қамтамасыз ету жағдайында электржелілері компанияларын баға бойынша реттеу мәселелерін шешу жолдары.
Түзельбаев Б.И. (Алматы энергетика және байланыс институты, Алматы қ.)
20. Актуальные проблемы развития малого и среднего бизнеса Костанайской области и пути их решения.
Доцинова А.И. (Костанайский инженерно-экономйескй университет им. М. Дулатова, г. Костанай)

Ужин – 18³⁰-20⁰⁰ ч.

Ресторан-клуб «Звездное рандеву»

26 сентабры 2003 г., пәтпнцә
әтөрөй дөнь

ЗАКЛЮЧИТЕЛЬНОЕ ЗАСЕДАНИЕ
Закрөтте Международного эконоического конгресса
«Актуальные проблемы экономики и финансов
Республики Казахстан»

*/Дворец культуры горняков, Большой зал/
10⁰⁰-11⁰⁰ ч.*

1. Выступление председателей секций.
2. Награждение участников конгресса по номинациям.
3. Принятие решения конгресса.
4. Закрөтие конгресса.

ЭКСКУРСИЯ ПО ПРЕДПРИЯТИЯМ

ФИНАНСОВО-ПРОМЫШЛЕННОЙ АССОЦИАЦИИ
«ВАЛЛОТ-ТРАНЗИТ»

11⁰⁰-13⁰⁰ ч.

*Место сбора: парадный вход Дворца культуры горняков,
пр. Бухар-Жырау, 32*

Маршрут экскурсии:

1. Дворец Детства «Валлот-Транзит».
 2. Ювелирное предприятие ОАО «Валлот-Транзит Золото».
 3. Финансовый супермаркет ОАО «Валлот-Транзит Банк».
 4. Центральный офис «Валлот-Транзит Казахстан».
- Фотографирование участников конгресса на площади Евразия
у статуи – «Девушка с домброй».*

Обеденный перерыв – 13⁰⁰-14³⁰ ч.

ПРЕСС-КОНФЕРЕНЦИЯ

по итогам работы конгресса
Пресс-клуб, пр. Бухар Жырау, 30
15⁰⁰-15⁴⁵ ч.

ТОРЖЕСТВЕННОЕ ПРАЗДНОВАНИЕ



9-летия
Финансово-Промышленной Ассоциации «Валлот-Транзит»

Дворец культуры горняков, Большой зал
17⁰⁰-19⁰⁰ ч.

*Праздничный банкет,
посвященный празднованию 9-летия ФПА «Валлот-Транзит»
в ресторан-клубе «ЗВЕЗДНОЕ РАНДЕВУ»*
20⁰⁰-23⁰⁰ ч.

Вход по приглашениям билетам

До новых встреч уважаемые участники
Первого Международного экономического конгресса
«Актуальные проблемы экономики и финансов
Республики Казахстан» - 2003!



АССОЦИАЦИЯ ЭКОНОМИСТОВ КАЗАХСТАНА

Oil Paul

Please circulate to:

- Asset Securitisation Executives
- Structured Finance Executives
- Syndication Executives
- Asset Liability Managers
- Corporate Financiers
- Corporate Treasurers
- Leasing Executives
- Head of Training



EUROMONEY TRAINING

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4-day practitioner practical training course



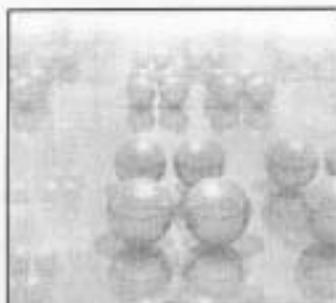
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- Securitisation of Trade Receivables
- Credit Enhancement Techniques
- Cash Flow Analysis
- Investment Strategies
- How to bid for a mandate
- Principal Finance
- Collateralised Loan & Debt Obligations (CLOs & CDOs)

Course 1: 15 – 18 September 2003

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Asset Securitisation

BACKGROUND

Securitisation – the parceling up of trade and financial assets into tradeable instruments where the cashflow from the underlying assets is used to pay the interest and redemption payments on the securities is growing exponentially, particularly in Europe. Legal and regulatory changes in a number of European countries have made securitisation less expensive and more efficient; the longer-term prospect of Euro-zone tax and legal harmonisation and a pan-European investor base, offers positive growth conditions for the markets; in addition, new asset classes such as sports and film library receivables, mutual fund fees, student loans and pub leases have entered the market, and proprietary acquisition finance via securitisation has led to many banks establishing principal finance activities; and finally, motivated by the desire to achieve regulatory capital relief, banks have begun to securitise sizeable tranches of their balance sheets through Collateralised Loan & Debt Obligations (CLOs and CDOs).

It is not surprising that securitisation is now considered to be a major growth area for issuers, investors and intermediaries.

WHO SHOULD ATTEND?

This course has been designed to meet the needs of experienced financiers, auditors and legal practitioners who are new to the field of securitisation and who wish to consolidate their knowledge in this complex area.

It will be of particular value to:

- Asset Securitisation Executives
- Structured Finance Executives
- Syndication Executives
- Asset Liability Managers
- Corporate Financiers
- Bond/ FRN Traders and Analysts
- Corporate Treasurers
- Leasing Executives
- Fund Managers
- Consultants, Lawyers and Accountants involved in securitisation

VENUE

The course is fully residential and takes place at the Euromoney Training Centre, East Horsley, Surrey, UK. A dedicated training centre set in beautiful parkland and with extensive on-site leisure facilities (including swimming pool, gym, sauna – all fully inclusive and available for delegates' use), the Centre provides executive accommodation in a country house atmosphere. It is within easy travelling distance of Gatwick and Heathrow Airports (40 minutes) as well as Central London (45 minutes, by train). Accommodation is in executive standard bedrooms with ensuite bathrooms, telephone, TV, tea & coffee making facilities, hair-dryer and trouser-press/ ironing facilities.

www.euromoneytraining.com/uk/horsley.asp

Securitisation courses from Euromoney Training include

- Innovations in Asset Securitisation
- Rating Agency Securitisation
- Cashflow Modelling for Securitisation
- CLO/CDO Securitisation

Please see back cover to request further information.

FACULTY

ZOE SHAW is General Manager of the London Branch of Bankgesellschaft Berlin and Managing Director, Debt Finance Division, which includes, Inter alia, Capital Markets Origination, Cash and Synthetic Securitisation, Credit Derivatives, Syndicated Lending, High Grade Investments and Debt New Issues. Trade or financial receivables can be re-packaged through BGB's "Check Point Charlie" or "BEST" US and ECP funded programmes. The Division has also issued two unfunded balance sheet synthetic collateralised debt obligations, one privately and one "Rhea" for £2.2bn publicly. BGB has also arranged five CDOs for its clients repackaging, Investment grade corporate, ABS and CDS product. BGB also provides a wide range of credit enhancements, including purchasing subordinated notes and has a £18bn ABS investment portfolio.

Zoe Shaw is Editor in Chief of Euromoney's Workbook on Securitisation, MacMillan's "International Securitisation" and is Course Director for Euromoney's Securitisation Course. She has an MA from Cambridge University.

BRUCE GAITSKELL has been involved in the European Securitisation market for ten years, and was former head of the Asset Backed group at UBS Ltd in London and is now the strategic advisor to the board of Cityscape.

MIKE LLOYD is a partner in the financial services practice at Deloitte & Touche where he specialises in capital market transactions and treasury operations. His recent securitisation experience has included advising on a range of assets such as residential mortgages, aircraft leases, trade receivables and corporate loans.

RICHARD SENIOR is Head of Marketing, Securitisation, at Bankgesellschaft Berlin.

TIM NICOLLE is Managing Director of Risk Ltd, a specialist advisor on structured financings.

This training programme provides a unique opportunity to learn from leading practitioners as well as to network with other securitisation executives from the UK and Europe. The course focuses mainly on the European securitisation market but will also be of interest to delegates from non-European and emerging securitisation markets.

Previous delegates have come from companies such as:

ABN AMRO Trust
American Express Bank Ltd
Bank Austria Creditanstalt
Bank of Scotland Treasury Services Plc
Barclays Capital
Centor Fitzgerald International
Credit Agricole Indefensor
Dresdner Kleinwort Benson
FMO
Hypo Vereinsbank AG
NeesPierson
Norwich Union Plc
PricewaterhouseCoopers
Royal Bank of Scotland
Shell
Union Bank of Norway

Alpha Bank
Banca Commerciale Romana SA
Bank of Ireland
Bankgesellschaft Berlin Ltd
BIS
Citibank
Danke Bank
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Fortis Bank
Landesbank Schleswig Holstein
Hypo Vereinsbank AG
Globank
Habobank International
Saudi American Bank
The World Bank
West Merchant Bank

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If you have 5 or more delegates to train within a year on any of our courses, special discount schemes are available.

Sponsorship
Should you have a group of people to train and wish to initiate a training programme held in the UK, a special sponsorship package can be arranged. Choose from any of the courses listed on our 2003/ 2004 training calendar.

For further information, please contact:
Aida Wilson
Director of Public Programmes
Tel: +44 (0)20 7779 8086
Email: AWilson@euromoneytraining.com

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tel: +44-20-7779-8760

e-mail: info@euromoneytraining.com

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web: www.euromoneytraining.com/uk

AGENDA

Delegates should arrive from 18.00 onwards before the course starts.
Break and evening meal will be reserved for them. The cost for this is included in the course fee.

DAY 1

SECURITISATION OVERVIEW

- Development of securitisation
- Comparative markets
- The players, risks and common factors

CREDIT ENHANCEMENT & RISK ASSESSMENT

- Comparison of alternative methods
- Bank enhanced and subordinated debt
- Role of the monoline
- Non-AIG-based credit

ACCOUNTING

- Accounting objectives
- International variations in accounting practice
- Accounting developments
- IAS/IFRS in the UK

AUDITING

- Role of the auditor
- Examples of audit engagements

DAY 2

SECURITISATION OF TRADE RECEIVABLES

- Programme structures
- Risks/ benefits
- Comparison with the US

LEGAL ASPECTS - UK, EUROPE & USA

- True sales and other insolvency issues
- Purchase mechanics and profit extraction
- Securities law
- Bank regulatory issues
- Credit enhancement vs liquidity
- Creation of Special Purpose Vehicles (SPVs)
- Multi-seller vehicles vs single seller vehicles

TRANSACTION STRUCTURING

CASE STUDY – COMPARATIVE INVESTMENTS

DAY 3

PRINCIPAL FINANCE

- Overview of the market
- Types of proprietary securitisation
 - Bond repackagings
 - Asset portfolio purchase and securitisation
 - Real-estate property sale and leaseback
 - Privatisation – acquisition & financing
 - Whole business purchase & securitisation
 - Structured loan & debt obligations

THE ISSUER'S PERSPECTIVE

- Preparing for securitisation
- Structuring issues
- Choosing the right instrument and market:
 - CDOs
 - Fixed rate issues
 - CDOs
 - Commercial Paper

Guest GUEST SPEAKER
"Marketing in Europe"

COURSE DINNER

DAY 4

CASHFLOW ANALYSIS

- Systems for securitisation
- Cashflow modelling

RISE OF SYNTHETICS

- CDO's
- CBO's
- CLO's

CASE STUDY – BIDDING FOR MANDATES

In small syndicate groups delegates bid for the mandate on two types of asset portfolio

- Identifying & resolving problems
- Case Study debriefing

Course Review & Summary

Course ends at approx 1700 hours

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fax: +44-20-7779-8683

e-mail: info@euromoneytraining.com

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Program for the FSI Teambuilding Retreat (October 10-11, 2003)

Пятница, 10 октября 2003г./ Friday, October 10, 2003

- 12.00 Сбор и выезд от здания Нацкомиссии
Depart Almaty from the NSC building
- 12.40 – 14.00 – заезд, устройство в санатории
check-in
- 14.00 – 15.00 – обед
lunch
- 15.00 – 15.30 – встреча в конференс-зале, подведение итогов
meeting in the conference room, annual review
- 15.30 – 17.00 – время с командой
team building games
- 17.00 – 17.30 – полдник
tea time
- 17.30 – 19.00 – большой теннис, бассейн, сауна, тренажерный зал, личное время
tennis, swimming, sauna, gym, personal time
- 19.00 – 20.00 – ужин
dinner
- 20.00 – личное время
personal time

Суббота, 11 октября 2003г./ Saturday, October 11, 2003

- 09.00 – 10.00 – завтрак
breakfast
- 10.00 – 12.00 – личное время
personal time
- 12.00 выезд
departure

Возьмите с собой: деньги, теплую одежду, медикаменты, купальник, оснащение для тенниса (большого, настольного), бадминтона, дополнительную посуду и все остальное, что по Вашему мнению может пригодиться.

Примите во внимание: организация оплачивает только номера и то, что включается в проживание (питание и отдельные виды развлечений). Оплата телефонных звонков, сауны, бара производится самим клиентом. Оплату за дополнительные услуги, а также за поврежденную в номерах мебель и битую посуду, просьба самостоятельно произвести до расчетного часа 12.00 в день выезда, т.е. в субботу 11 октября 2003г. При наличии каких-либо неисправностей на момент въезда, просьба сразу же сообщить куратору этажа.

Take with you: money, warm clothes, medicine, bathing suit, tennis equipment (for ping-pong and tennis), badminton, plates/cutlery items for your room, or other things which you think might be useful.

Please note: the company will pay for your room and other things included in the price of the room (food and certain kinds of entertainment). The guest himself will pay for any phone calls, use of the sauna, and the bar. Please make payment individually for any additional services and any damage to the room or its contents at the reception desk by 12.00 on the day of departure, i.e. October 11, 2003. If you discover some defects in your room when you check in, please let the floor administrator know immediately.

FINANCIAL INSTRUMENTS ATTACHMENTS

THE PRAGMA CORPORATION
Financial Sector Initiative
USAID/Republic of Kazakhstan



USAID/

Kazakhstan, Almaty 480091
67 Aiteke Bi St., Rms. 413-415, 420-422
Telephone: +7(3272) 50 47 53
 +7(3272) 50 47 54
Fax: +7(3272) 50 47 57

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+7(3272) 50 47 57

To: Chairman of the National Bank of Kazakhstan
Mr. Grigori Marchenko

Date: ____ November, 2003

Dear Mr. Marchenko,

Further to our proposals that we brought forward in our letter 230/180903 DD September 18, 2003 on legal and practices review of the structured form of finance and securitization, in this letter we would like to present to your attention concrete proposals on the use of the relevant European experience <as a model> to adapt structured form of finance in Kazakhstan, as based on a detailed analysis of the use of law and the reforms <carried out> in this area in countries of Continental Europe, and, in particular, the example of the Italian Law on Securitization #130 DD 30.04.1999 as the most comprehensive.

In submitting our proposals we have in mind that the development of structured form of financing most fully answers to the requirements of the current stage of the development of Kazakhstani financial system, can become one of the most effective influences by the state on the development of the domestic capital markets and emergence of new financial instruments, and, ultimately, on a more efficient allocation of financial resources.

The benefits of the structured form of financing will include for Kazakh corporations (1) to enable them to better manage risks, (2) access alternative funding sources and capital markets, and (3) maximize leverage using a corporation's cash flows despite the existing capital constraints; and, for Kazakh (*and foreign*) investors, (1) significantly expand investment opportunities, (2) provide diversified investment alternatives/ new financial instruments with various degrees of credit risk, interest rate and maturities.

As you know, Kazakh companies and banks do already take an increasing interest¹ in securitization as an off-balance low-cost source of funding. But due to the fact that Kazakhstani legislation does not currently recognize structured form, the only alternative for them remains the use of off-shore jurisdictions of convenience and setting up off-shore financing vehicles. Given this fact, it is important for Kazakhstani regulatory authorities to determine their attitude on this issue, which may be epitomized, for instance, in the creation of legislative and other conditions for the development of structured finance domestically.

Structured finance transactions are known to be extra safe for investors, which is due to their transparency, separation of risk and the use of additional means of credit and liquidity enhancement in the deal structure. It would be useful to stress here once again that Enron-type transactions were "secular, unusual transactions, designed specifically to take risk rather than to

¹ Halyk Savings Bank of Kazakhstan, Almaty Airport

an elaborate it, entirely unlike the standard practice of structured transactions servicing important business and economy needs".²

Enhanced investor protection in structured-type deals, in particular, securitizations is achieved by the following means :

1. Separation of homogenous standardized assets providing constant flow of cash into a special structure called special purpose enterprise, or SPE, and a legally binding separation of the assets' risk from any other risks, including the risks of the originator to whom these assets belonged initially.
2. Legally binding pre-destination of the use of the proceeds from the separated assets exclusively on servicing securities issued against the security of these assets, and on payment of the transaction costs as directly stated in the terms and conditions of the securities issuance.
3. Transfer of supervision and control in the interests of security holders over SPE operations and its compliance with the terms and conditions of the securities issuance to an independent third party conducting its business in accordance with high professional standards, having adequate capital and bearing financial liability over its actions (a trust agent or a bondholders' representative).
4. Registration of SPE as a financial intermediary subject to supervision and regulation of the central bank.
5. Credit enhancements of the issue through creating internal and external enhancement structures.
6. As a rule, and if economically justified as in case of a sizeable issue, asset-backed securities receive a rating from a recognized rating agency.

The condition of the Par. 5 is a part of an independent financial structure of the issue, Par. 6 has to do with the opinion of an independent rating agency regarding quality of the security based on its professional rating criteria. Whereas we are more interested here in Par.1-4 which form legal basis for any structured transaction carried out domestically, and their effect is based on special legislation that creates a special regime for the structured form of financing known in Italy as the "Regime of the Law of Securitisation" (RLS).³

A adoption of a separate Law on Securitisation and creation of an RLS in Kazakhstan represent the essence of our proposal with regard to the method of reforming legislation in Kazakhstan aimed at development of structured form of financing.

RLS assumes the need for certain "derogations" from key laws in respect of the object of the RLS as well as amendments to a number of legislative acts, namely :

- Law on Banks and Banking Activities;
- Law on Securities Markets;
- Civil Code;
- Tax Code;
- Bankruptcy Law

Besides, the National Bank of Kazakhstan and its financial markets supervisory and regulatory authority would need to amend the existing or establish new regulations to implement the said Law and, possibly, come up with a set of relevant criteria for registration, listing, supervision, and reporting in connection with the RLS. Most of these criteria are to be found in the existing regulation in respect of financial institutions, but in certain cases some important alterations and

² B Kavannah : "Securitization and Structured Finance: Legitimate Business Management Tools." (Appendix 5)

³ See Appendices 1-4

additions might be necessary. On the other hand, it is necessary to take into account the potential of the market's self-regulation as regards the choice of financial structure of an asset-backed issue and credit enhancement depending on the circumstances.

The proposed measures are aimed at the development of the so called "full securitization" involving sale of the assigned asset and its removal from the originator's balance sheet. However, an interim form of asset-backed securities already exists and is becoming popular in Kazakhstan that provides for a separation of assets into a pool and transfer of the pool under a "trust" supervision of a bondholders' representative without full isolation from the bankruptcy risk of the originator. We estimate the potential market of this interim structured finance form at no less than \$100 m, and more companies are taking interest in it as a source of cheaper secured debt denominated, as a rule, in the local currency.

The same criteria as in a "full securitization" apply to the assets supporting the "interim" form of financing that comprise at present, apart from mortgage loans, real estate leases, auto-loan-backed receivables, car dealership lease-sales, and lease contracts. In our view, the present practices in this field of financing, the criteria of valuation and security, the built-in monitoring and control systems (bondholders' representative role) permit to extend the list of secured bonds, in addition to mortgage-backed bonds, in which pension funds can be allowed to invest in order to create secondary market for the assets-secured obligations and achieving a cheaper financing in national currency.

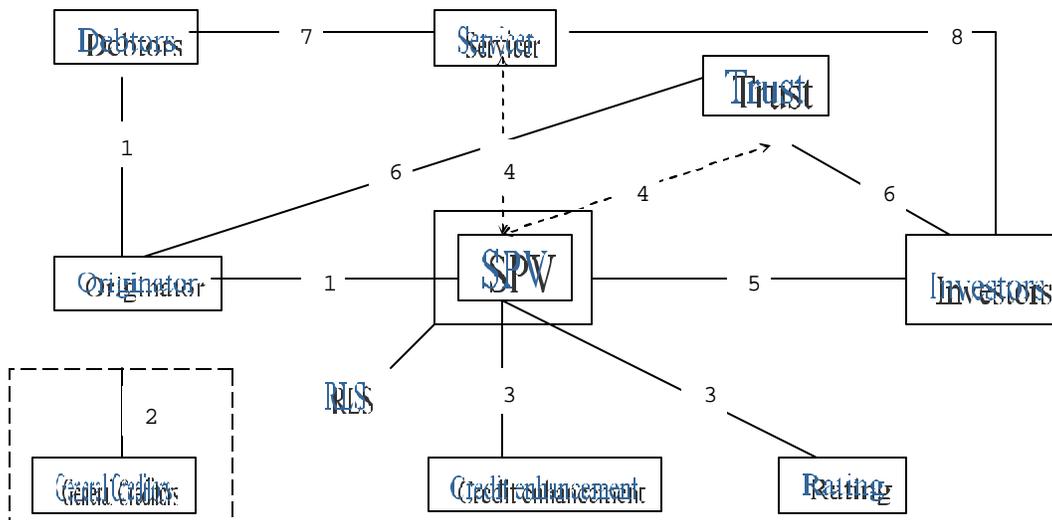
Besides, in our view, there is certain potential to expand the definition of agency securities for Kazakh development institutions, the Development Bank of Kazakhstan in particular, and a wider use of the structured form of financing, including project financing, using this special-purpose platform.

We also believe that the key covenants of the RLS can be extended over project financing as a special form of structured finance that provides for a legal separation (segregation) of the (future) asset to be created and carrying out the transaction of a non-recourse/limited recourse basis.

Overall, we believe that the structured market in Kazakhstan can develop along the general trend as in Continental Europe - from financing using convenient offshore structures to interim domestic structures of secured financing to securitizations using "true sale" method and removal of the assets from the originator's balance sheet - but cover the distance within a much shorter period of time.

The situation is even more simplified by the fact that Kazakhstan has transitioned to the international accounting standards that recognize the "true sale" method in a securitization under a "Sale" standard provided it meets certain specified criteria, namely: bankruptcy remoteness of the assigned assets in case of the bankruptcy of the originator.

The schematic of a securitization transaction may look as follows:



1. Originator transfers (assigns) receivables under the obligations of its debtors to a special purpose enterprise/ vehicle (SPV)
2. General creditors of the originator are notified of the transaction by way of an appropriate media publication thus bringing into force special regime (RLS) in respect of the assigned assets (receivables).
3. The transaction receives external credit enhancements and a rating.
4. SPV enters into an agreement with the organization carrying out trust functions (bondholders' representative), and a company to service collection and transfer of cash flows from the debtors as per the assigned receivables.
5. SPV issues securities backed by the assigned receivables.
6. Originator receives a fair compensation for the transferred (assigned) receivables (as prescribed by the "Sale" accounting standard) in the form of proceeds from the sale of securities in the capital markets.
7. Debtors continue payments against the receivables transferred to the SPV.
8. The service company (or the originator) service the cash flows from the debtors and make the payments in favor of the investors.

The preliminary analysis of individual elements of the schematic that we conducted has shown that they do not run counter to the existing norms of the Kazakh legislation, have the precedent analogies and can be successfully replicated with due regard to the local specifics.

There, for example, the functions of a trust agent, i.e. monitoring of the transaction compliance with the legislation and the terms and conditions of the issue, can be performed by a bondholders' representative – a second-tier bank. In our view, the notion of bondholders' representative can be fully integrated into the RLS. A second-tier bank can also carry out the functions of a service company servicing the cash flows. The servicer's functions can also be carried out by the originator, but in that case the investors and rating agencies will take into account the risk of commingling of assets.

We understand that for practical implementation of the project it's necessary to verify a number of assumptions made regarding certain aspects of the proposed plan based on the information

provided by local as well as foreign legal experts who have the experience with introduction of the structured form. The results of this process can form the foundation of the more specific collective recommendations to implement the structured form of financing in Kazakhstan.

Therefore, we propose the following:

1. To set up a permanent working group under the auspices of the National Bank of Kazakhstan with participation of the Pragma Corporation and the legal experts representing securities markets participants to review legislation and practices of the structured form of financing in the Republic of Kazakhstan.
2. To approve the following indicative timetable and the action plan for the working group:

Work schedule of the Permanent Working Group under the National Bank of the Republic of Kazakhstan on reviewing legislation and practices related to the structured form of financing and securitization in Kazakhstan

?	Action	Responsible Party	Deadline
1	Agreeing on the composition and membership of the Working Group	NBK ; Pragma	2 nd week Dec. 03
2	First Session of the Working Group – project presentation and discussion	NBK ; Pragma	2 nd week Dec. 03
3	Analysis and workout on the results of the 1 st session of the Working Group, planning next steps	NBK ; Pragma	Jan 04
4	Second Session of the Working Group – discussion of the next steps with regard to the results of analysis of the issues	NBK ; Pragma	Jan 03
5	Discussion with external legal experts	Discretion of the Working Group	Jan 03
6	Preparation and submission of the final recommendations of the Working Group to the NBK	Working Group; Pragma	1 st week of Feb 03

We attached to this letter the following material translated to Russian that could be useful for a more detailed review of the issue in question:

1. Securitization Law #130 of the Italian Republic DD 30/04/1999
2. Freshfields Bruckhouse Deringer comments to the Law (June 2001).
3. Standard & Poor's "Legal Issues of Assetbacked Securitizations in Italy" (20.09.2001)
4. Standard & Poor's "Commingling Risk in European Securitizations" (16.05.2001)
5. Barbara Kavanagh: Securitization and Structured Finance: Legitimate Business Management Tools. (Barbara Kavanagh was a senior executive inside the Federal Reserve for several years dealing extensively with capital markets and structured transactions.)

With kind regards,

David Lucterhand
 Chief of Party
 The Pragma Corporation
 FSI/USA ID / Central Asian Republics

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(Financial Sector Initiative)

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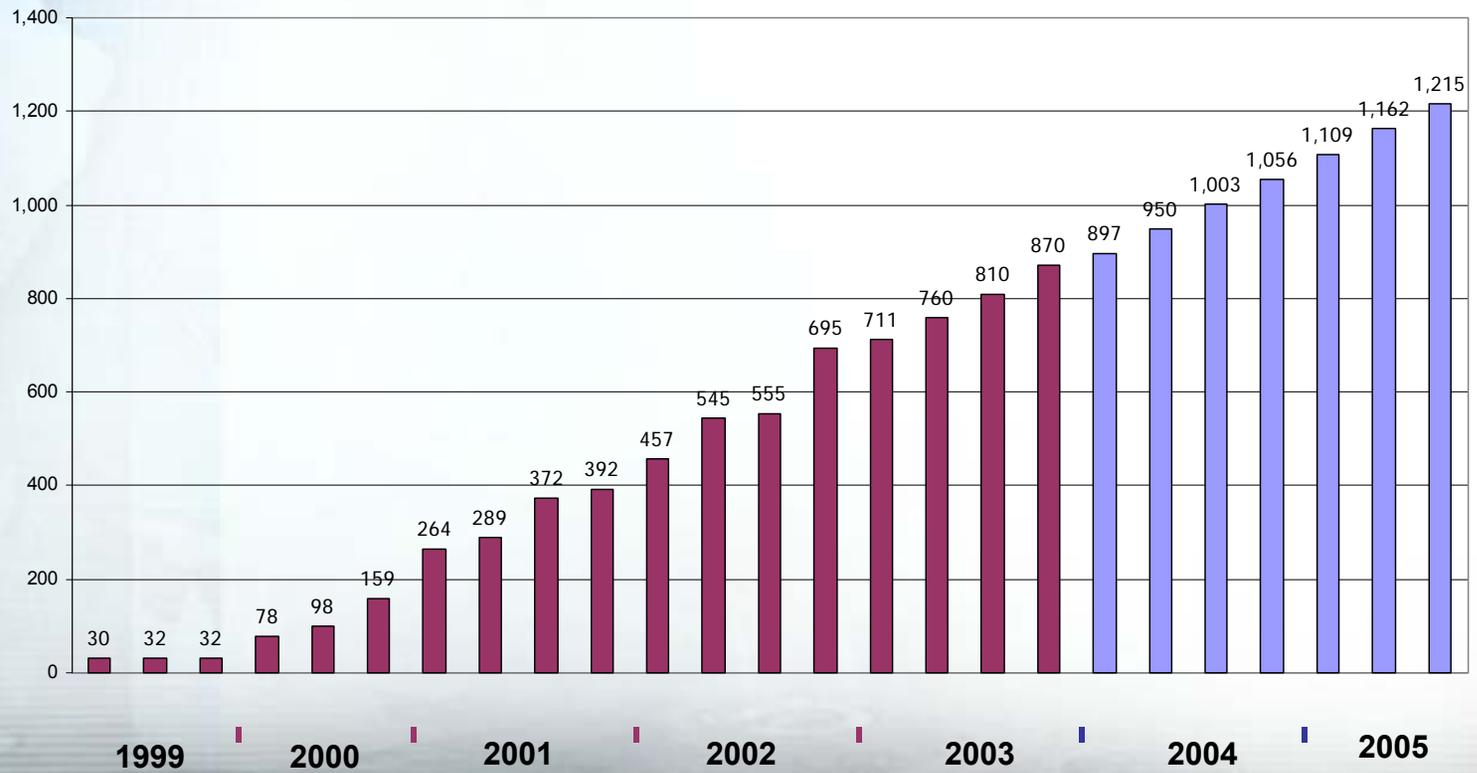
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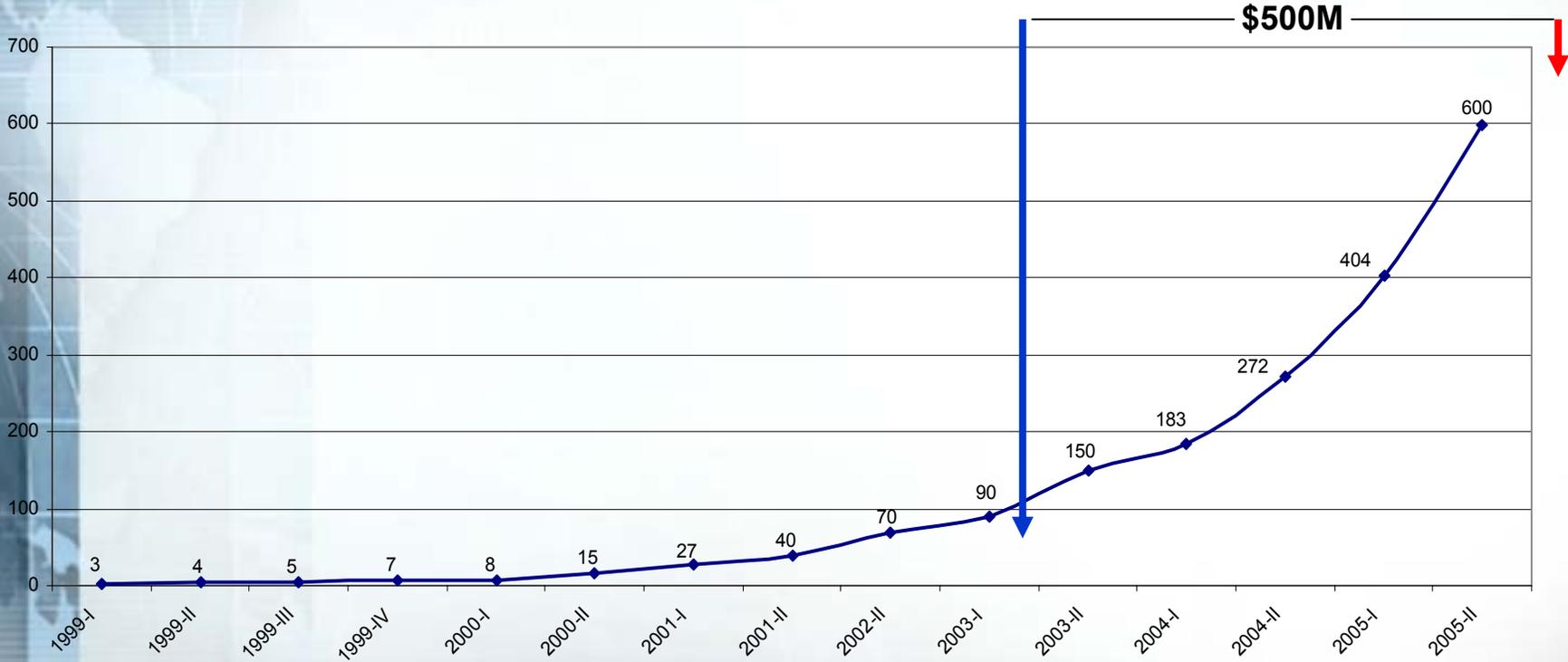


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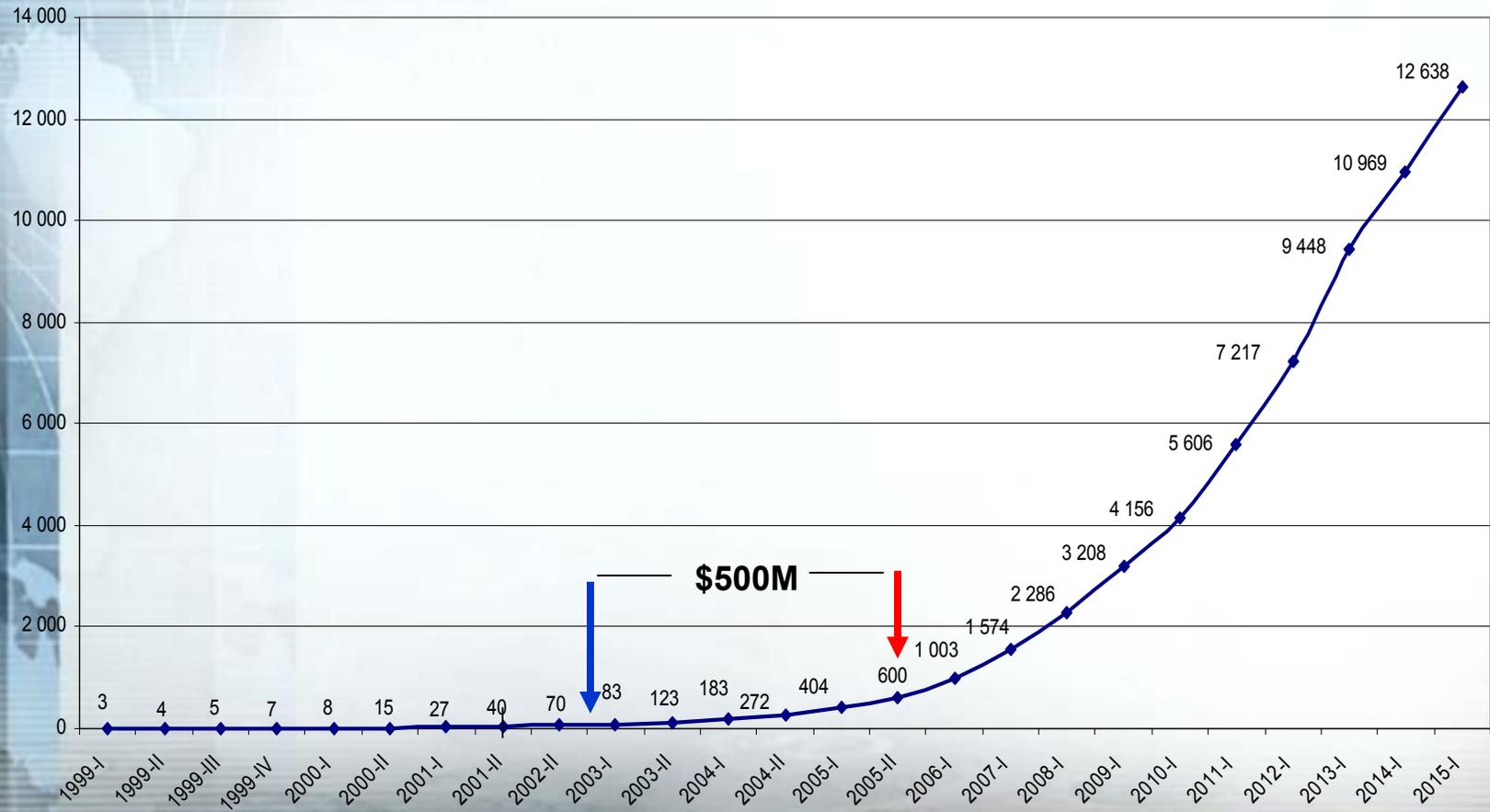
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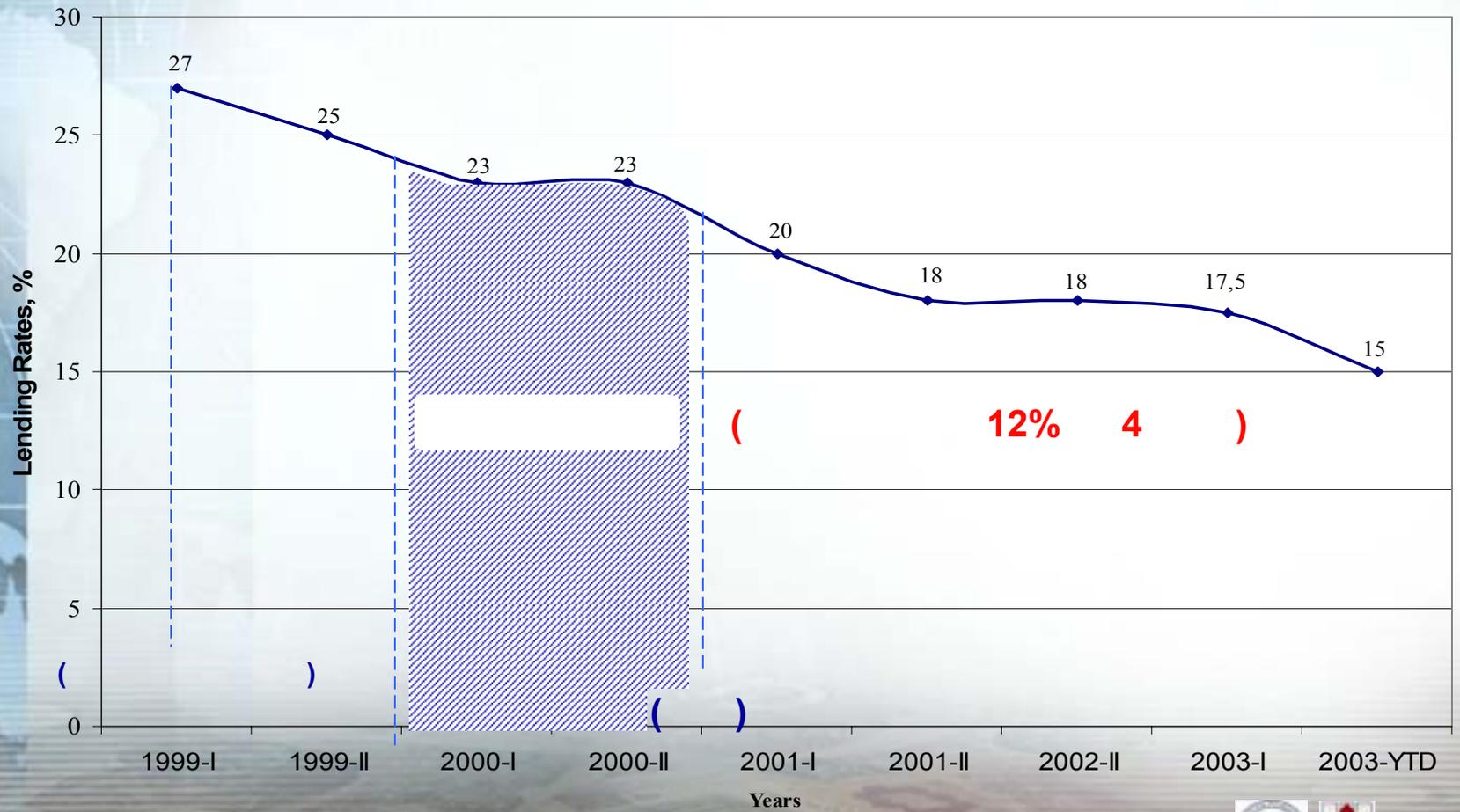


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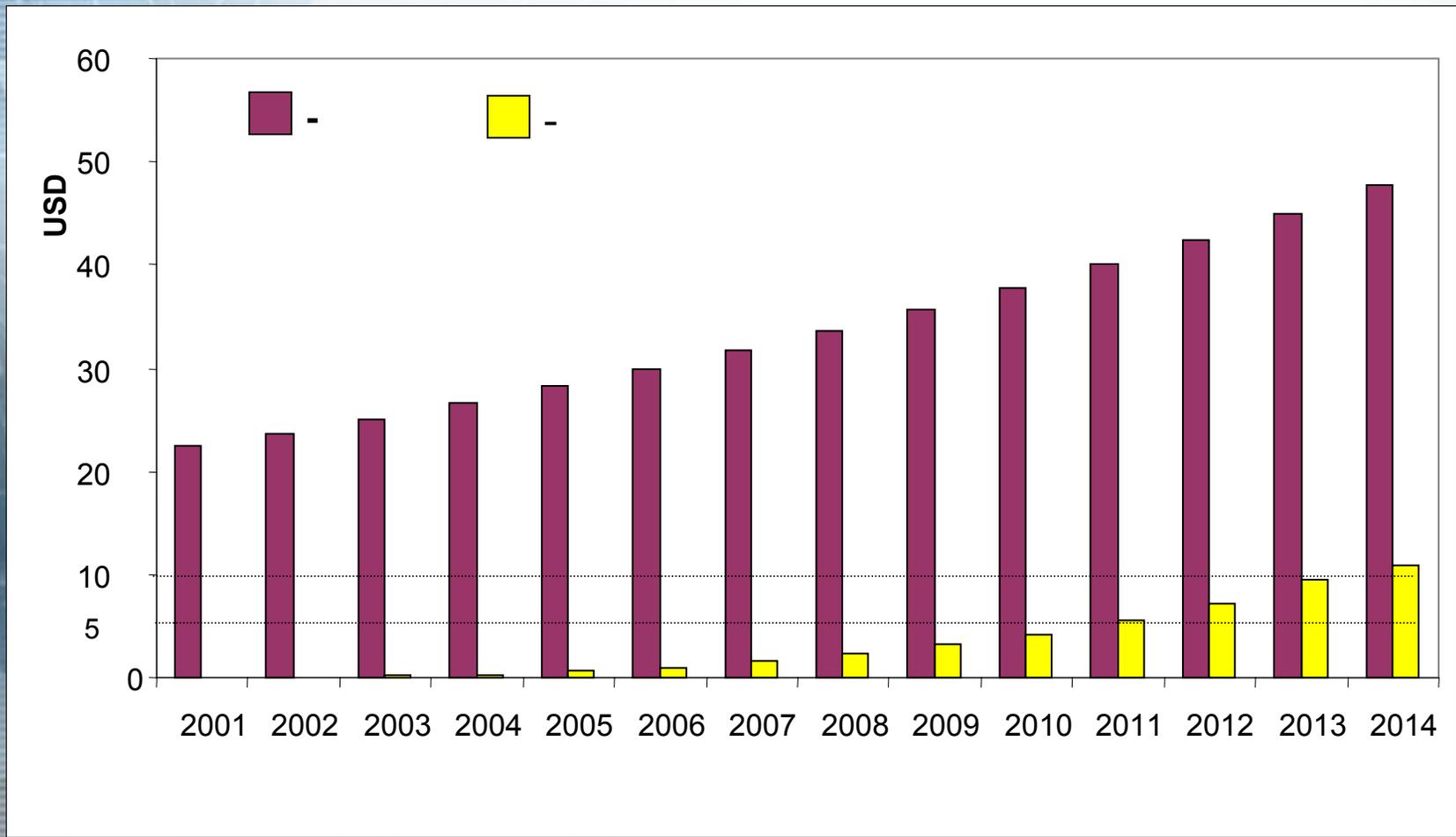
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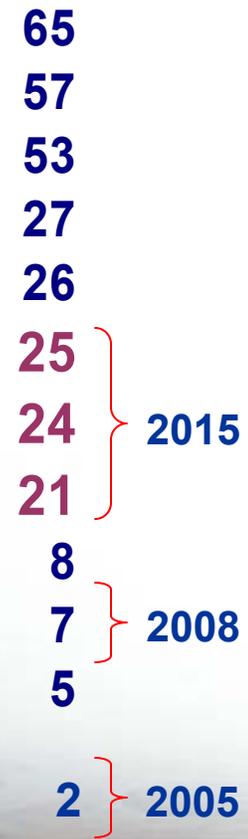
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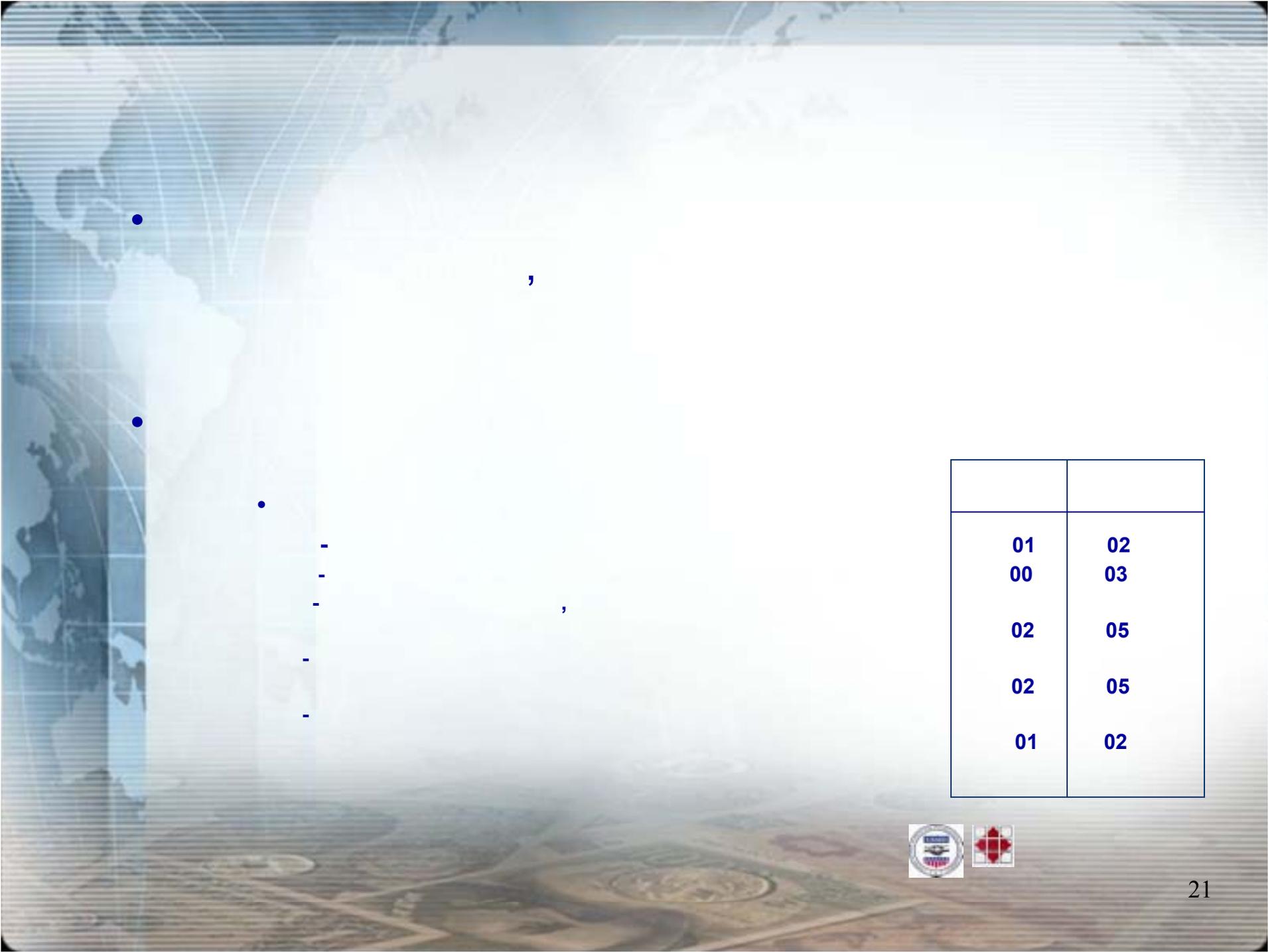


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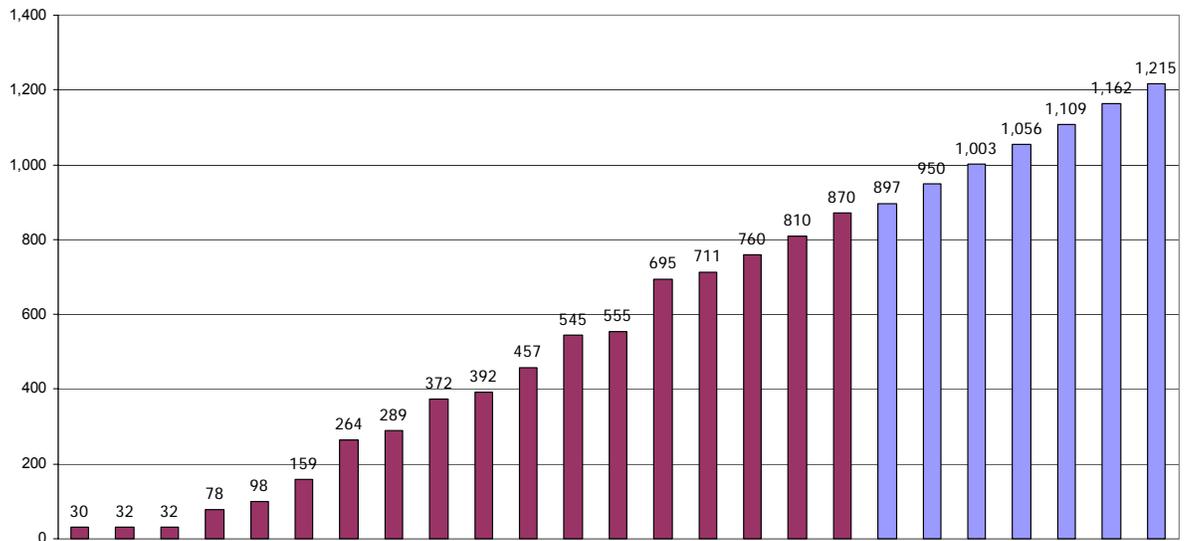
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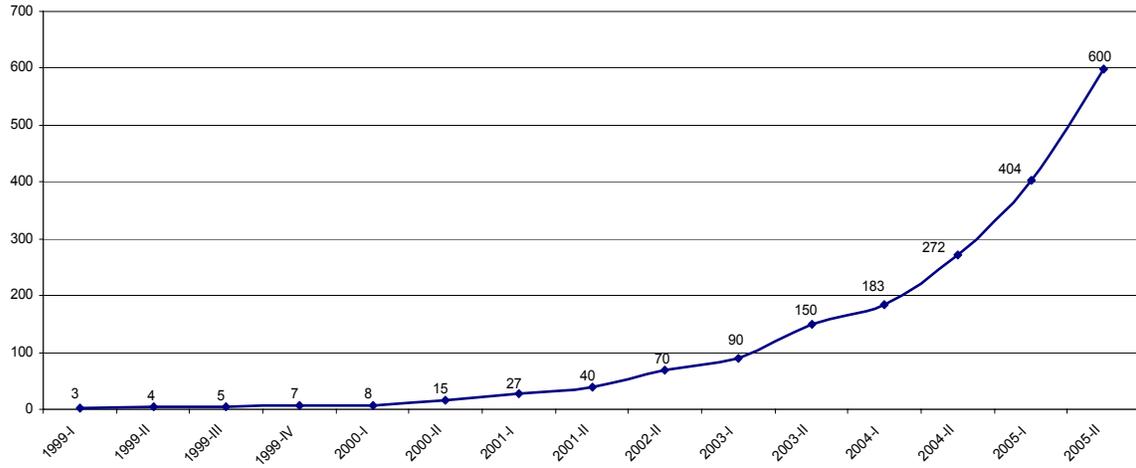
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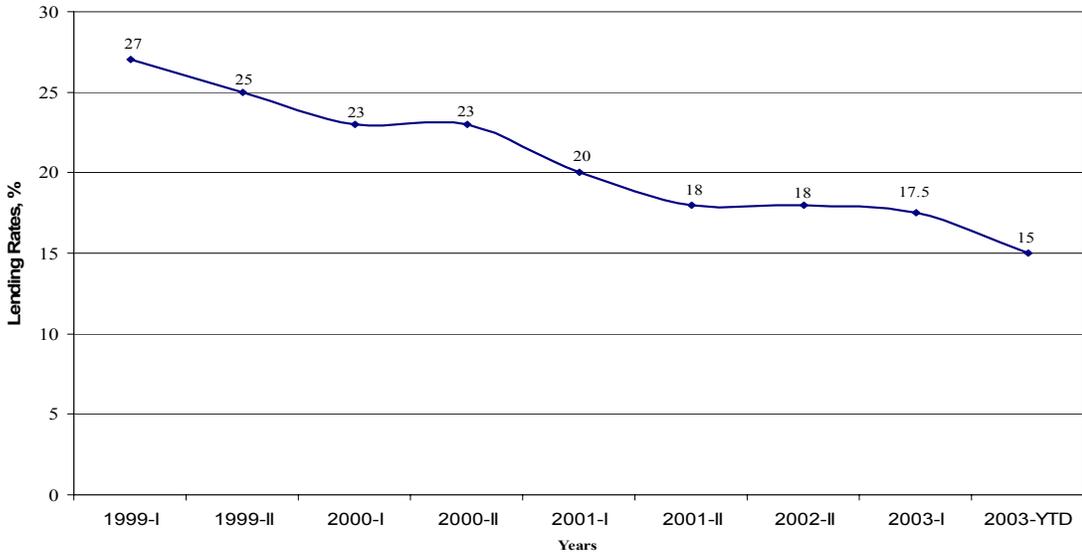
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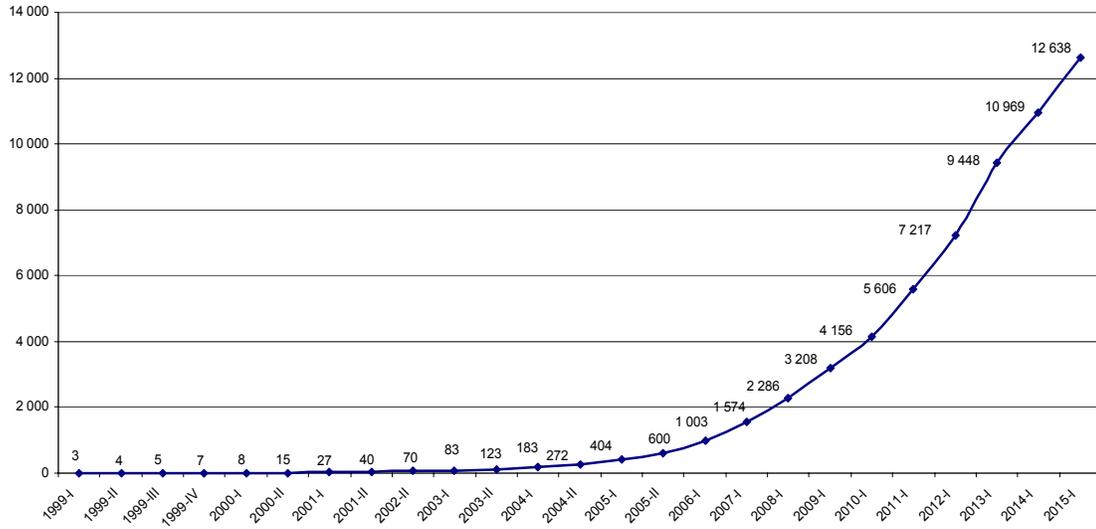


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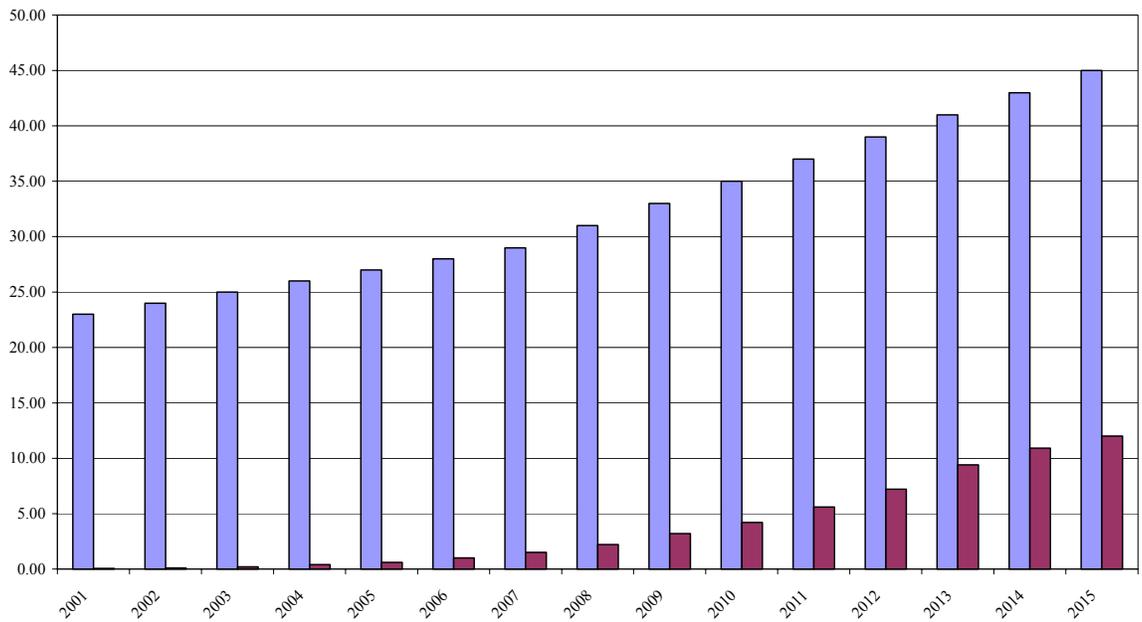
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PENSIONS & INSURANCE ATTACHMENTS

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MORTGAGE ATTACHMENTS

January 26, 2004

To: Bolat Zhamishev, Chairman, Agency on Regulation and Supervision of Financial Markets and Financial Institutions

From: Sally Merrill and Douglas Whiteley, The Urban Institute

cc. Anvar Saidenov National Bank of Kazakhstan; Arman Mekishev and Gulfairuz Shaikakova, Guarantee Fund for Mortgage Credit; David Lucterhand and Steve Moody, The Pragma Corporation

Mortgage Guarantee Insurance: Insurance Regulatory Requirements and Bank Risk Weights for Insured Residential Mortgage Loans

I. Executive Summary.

Regulatory Requirements for Mortgage Guarantee Insurance. Kazakhstan has joined the ranks of selected transition and emerging markets with vibrant and fast-growing lending for residential mortgage finance. Mortgage guarantee insurance (MI) is a proven and prudent approach for supporting expansion of mortgage finance. MI enables banks to remove credit risk from their balance sheets by sharing it with appropriately capitalized and regulated mortgage guarantee insurance companies. Indeed, the primary goal of insurance is to spread risk in the financial sector. MI has long been a pillar of the mortgage finance systems in the U.S., Canada, and Australia, and is now being developed throughout Europe and a number of emerging and transition nations.

Kazakhstan's MI institution, **the Guarantee Fund for Mortgage Credit, FGIC**, now registered and licensed, will soon open its doors for business. FGIC has been structured according to a business model following private mortgage insurance worldwide, with a regulatory framework based on international best practice. FGIC introduces both an independent source of capital into the banking and insurance systems and provides for independent underwriting and long-term, catastrophic loss protection stemming from credit risk. The capital and ownership parameters for FGIC's structure are discussed below. Since credit guarantee regulations have not yet been developed in Kazakhstan, FGIC can hopefully serve as the regulatory model for other mortgage guarantee companies.

Risk Weight Policy for Residential Mortgage Loans. A second issue discussed in this memorandum pertains to the banking regulation risk weight treatment of residential mortgage loans. The loan-to-value ratio (LTV) is recognized worldwide as the single most important factor in determining credit risk for residential mortgage loans. In numerous countries, loans with LTV below a specified level receive a reduced risk weight; this is also the case in Kazakhstan¹. In addition, prudent mortgage credit insurance goes hand in hand with the risk weight policy for residential mortgage loans: higher LTV loans that carry *qualified* MI also allow banking regulators to provide reduced risk weights. The risk weight proposal for Kazakhstan is based on international best practice and was adapted to Kazakhstan's current lending conventions.

Agency on Regulation and Supervision. The financial strength of Kazakhstan's residential mortgage lending system can be jeopardized by allowing mortgage-related insurance products to be developed outside prudent regulatory parameters. The Agency on Regulation and Supervision of Financial Markets and Financial Institutions (hereafter noted as FSA, the Financial Supervision Agency) should address these regulatory parameters as soon as possible, as a number of Kazakhstan's insurance companies are already offering a type of mortgage insurance. In addition, FSA can use MI as a valuable tool in conjunction with the LTV in establishing appropriate risk weight policies for residential mortgage loans.

¹ Kazakhstan now assigns a risk weight of 50% to residential mortgage loans with LTV below .70 and also meeting other requirements for purchase by the KMC (Kazakhstan Mortgage Company).

Thus, the pertinent insurance and banking regulatory issues are: (1) the regulatory requirements defining a qualified MI insurer, most importantly the capital requirements for financial institutions offering mortgage insurance; the “monoline” status of the mortgage guarantee insurer; and the ownership structure of qualified MI companies; and (2) risk weights for residential mortgage loans with LTV > .70 carrying MI from an *qualified* mortgage insurer. In summary, the issues may be described as follows:

- € **Capital Requirements for Entities Offering Mortgage Guarantee Insurance.** FSA regulation of entities offering mortgage guarantee insurance (MI) includes both FGIC and private insurance companies in Kazakhstan that are now offering a type of mortgage guarantee insurance. Notably, ***worldwide, capital requirements for MI institutions tend to be very stringent, generally more so than for other types of insurance.***
- € **Risk-to-Capital Standards and Reserve Requirements.** FGIC has been structured with a minimum of 20:1 risk to capital ratio. Loss reserve requirements are established at 60% of premium.
- € **Monoline Status for Entities Offering Mortgage Guarantee Insurance.** FGIC has been designated a monoline insurer. – that is - it offers only mortgage guarantee insurance. ***The designation of monoline status for entities providing MI is the most common convention worldwide; again this is a prudent regulatory approach to a potentially high risk endeavor.***
- € **Ownership Status for Entities Offering Mortgage Insurance.** A mortgage insurance company should be **owned by a non-interested third party**. Non-interested third parties would exclude any “captive insurer”, that is, one that is owned or controlled by the same management or financial ownership interests as the bank that is issuing the mortgage loan.
- € **Risk Weight Policy for Residential Mortgage Loans.** As noted, the level of the LTV (loan-to-value ratio) is commonly a key determinant of the risk weight assigned to a residential mortgage loan. Loans with LTV below a certain level, specified by each country to fit their own conditions, receive a lower risk weight, generally 50%. In addition, granting favorable risk weight status to higher LTV loans that carry qualified MI is, worldwide, an effective tool for expanding mortgage lending in a prudent manner. ***Thus, the role of mortgage guarantee insurance in the risk weight framework can be very important, with a lower risk weight assigned to higher LTV loans that carry MI from a qualified provider.***

Section II, which follows below, discusses the regulatory framework for mortgage insurance companies in the U.S., worldwide, and in Kazakhstan, including a summary of the regulatory framework that had been determined by the National Bank of Kazakhstan (NBK) for FGIC. The related issue of providing risk weight capital relief for loans carrying MI is discussed in Section III. Finally, Section IV provides a brief comment on the role of FGIC and KMC in expanding residential mortgage finance in Kazakhstan.

II. Regulation of Mortgage Guarantee Insurance

Regulation of Mortgage Guarantee Insurance in the United States. Mortgage guarantee insurance is an inherently risky business, subject to losses from economic downturns, insufficient geographic diversification, and natural or economic catastrophes. In the U.S. a number of mortgage guarantee insurers have become bankrupt in past decades. (Mortgage insurance in Canada has had a similar history.) As a result, U.S. regulators have established conservative rules for companies providing mortgage insurance (as have other regulators worldwide). Key U.S. regulations are the following:

- (1) *Significant initial capitalization* requirements of (a minimum of) \$5 million are imposed on mortgage insurance companies in the U.S. by the state insurance licensing agencies. As a practical matter, mortgage insurance companies that have begun operations in the last ten years have had initial capital and confirmed commitments for additional capital contributions ranging from about \$18 to \$23 million;
- (2) *Minimum capital requirements*, defined by a risk-to-capital ratio of at least 25:1;²
- (3) *A monoline structure*. MI companies can offer *only* MI, not any other insurance products,
- (4) *Ownership by a non-interested third party*. Non-interested third party would exclude any “captive insurer”, that is, one that is owned or controlled by the same management or financial ownership interests as the bank that is insuring the mortgage loan.
- (5) *Catastrophic Loss Reserve*. Specific reserves are set aside for claims resulting from long-term catastrophic losses incurred by the MI company.

This conservative framework for qualifying mortgage insurers confers advantages on the economy, the regulators, and the lenders. Not only are qualified insurers assumed to be able to weather the impacts of national or regional business cycles, but regulators have also achieved a true dispersion of risk among financial institutions. It is for this reason that bank regulators allow the insured loans also receive favorable risk weight treatment. In addition, the higher LTV loans insured by the qualified MI companies are designated legislatively to be eligible for purchase by U.S. secondary market institutions.

Mortgage Guarantee Insurance Worldwide. Table 1 illustrates the countries where MI is either now in operation or is being put in place. MI has had a long history in the U.S. and Canada, in, and more recently has played a major role in Australia and New Zealand. Numerous European countries have had government-sponsored MI programs, and private MI is now being established throughout much of the EU. Finally, MI has been established in several emerging and transition markets (and is under consideration in more, including India, Thailand, and Poland). As noted, MI tends to be conservatively regulated worldwide. The table shows the capital in place (when the information is available), and the nearly universal requirement for monoline status: both public and private MI companies are nearly all monoline, including in the U.S., Europe, Australia, New Zealand, Canada. Finally, in all cases that we know of, their ownership structure is at “arm’s length” from the lending institutions that are being served.

Structure of FGIC in Kazakhstan. Conservative rules have been proposed for FGIC, based on an amalgam of Kazakhstan’s capital and reserve requirements for insurance companies and the conservative approach to capital requirements for the private mortgage insurance companies in the U.S.

- (1) The capital of KZT 500,000,000 (approximately \$3.33 million) proposed for FGIC will assist the insurance fund in covering its start up expenses, via its investment earnings, as well as support its future growth. This amount exceeds the capital requirements for other insurance companies in Kazakhstan.
- (2) The FGIC Business Plan assumes a risk to capital ratio of 20:1.
- (3) Allowing the insurance losses to be paid from the loss reserve account is a good, conservative approach. It has been determined that the loss reserve requirement for FGIC will be 60 percent, as all premiums are to be paid into reserves according to current regulation for funds such as FGIC.

² In practice, private MI companies in the U.S. maintain risk to capital ratios of about 16:1 to 20:1.

(4) FGIC will be a monoline insurer.

“Downpayment” Insurance in Kazakhstan. Several private insurance companies in Kazakhstan now offer a variety of mortgage insurance products, including a type of mortgage guarantee insurance. It is our understanding that the companies are insuring the loan during the period in which the LTV falls from .85 to .70. In some respects, this is a positive and innovative development – the private sector responding to a “market message” and indicative of a demand for higher LTV lending. There are several concerns, however. First, some of these companies may be “captive” insurers, owned or controlled by the bank making the mortgage loan. If this is the case, the total level of credit risk in the banking system may not have been significantly reduced by MI, or indeed may have been increased. Secondly, the MI product is not monoline; it appears that it may be offered as part of a package of insurance products (including property insurance and mortgage life insurance), all from the same company for a surprisingly low premium (reported to be 35 basis points).

FSA should address this issue for prudential reasons. Especially as the volume of mortgage lending grows, it will be important to qualify these mortgage insurers as “eligible”, so that loans insured by them are backed by adequate capital (as noted, a level of capital commensurate with the relatively high risk of MI) so that the process represents a true sharing of risk in the system. Even if the banks agree that another, non-subsidiary insurance company will provide MI to their customers, risk in the system will not be adequately addressed if this company is not capitalized in a manner which supports the unique risk of MI.

III. Risk Weights Policy, Loan-to-Value Ratio (LTV), and Mortgage Insurance

International Policies for Risk Weights on Residential Mortgage Loans. Central Bank regulatory policy regarding residential mortgage loans is an important tool, both for controlling the level of risk in the mortgage finance sector and contributing to a prudent expansion of mortgage lending.

The first and foremost credit risk factor for residential loans is the LTV (loan-to-value ratio). Data from numerous countries show that default rates increase with the level of the LTV. As one example, data compiled for the U.K., Canada, the U.S., and Australia illustrates the increase in the default rate as the LTV increases from .80 to .95. Setting the default rates for loans with LTV of .80 as an index with value = 1.0, the relative probability of default nearly triples for loans with LTV of .90 (a factor of 2.84). For loans with LTV of .95, the increase is seven-fold (7.26).³

Thus, regulators in numerous countries require that high LTV loans must carry a higher risk weight. The LTV value that determines the “higher” or “lower” LTV classification varies from country to country, but is most frequently between .60 and .80. Under Basle I, risk weights of 50% are generally used for lower LTV loans, and a risk weight of 100% for residential mortgage loans above the country’s chosen LTV cut-off. Table 1 illustrates the risk weight and LTV approach for a number of countries. Under Basle II, risk weights tied to key risk factors are likely to be even more important in setting capital requirements.

Credit Risk, LTV, and Mortgage Guarantee Insurance. Mortgage guarantee insurance can play an important supporting role by helping borrowers of modest income to qualify for high LTV mortgage loans and by sharing credit risk with mortgage lenders. To be fully effective, however, MI must be coordinated with an appropriate regulatory environment. In countries where MI is an

³ Data prepared by GE Capital for presentation at the OECD Third Workshop on Housing Finance in Transition Economies, December 2002. There is also a very large literature on default risk in residential mortgage loans; see, for example, Ambrose, B. and Sanders, A., “High LTV Loans and Credit Risk, working paper, August 29, 2002.

integral part of the market, this generally involves risk weight parameters based on both the LTV and the use of MI.

There are two main approaches: (1) capital relief for higher LTV loans that carry MI, where MI is mandatory for all loans with LTV above a specified level (Canada's approach, and also a more limited mandatory rule in the U.S.), and (2) capital relief for higher LTV loans that carry MI, but MI is not generally mandatory (the U.S. and European approach).

Table 1 illustrates the various rules for capital relief for high LTV loans with MI. In Canada, MI is mandatory for LTV above .75, and the 50% risk weight is specified for loans with LTV above .75 but carrying MI. In the U.S., loans with LTV above .80 have a higher capital charge unless they carry MI (and MI is mandatory for LTV > .90). Similar rules, generally with LTV levels of .75 or .80, now apply, for example, in Australia, New Zealand, Italy, Israel, and Spain.⁴ Table 1 also summarizes our proposed rules for residential mortgage loan risk weights in Kazakhstan, which are discussed below.

Secondary Mortgage Markets and Mortgage Insurance. MI also plays a role in the eligibility criteria for purchase of mortgage loans in secondary markets. In the U.S., Fannie Mae and Freddie Mac do not purchase loans with LTV exceeding .80 unless they carry MI.⁵ Similarly, Ginnae Mae purchases loans insured by FHA (Federal Housing Administration, the U.S. public MI program), and VA (Veterans Administration). In the secondary markets of Australia and New Zealand, most securitized loan pools consist of loans with MI.

Kazakhstan's Current Policy for Risk Weights for Residential Mortgage Loans. Regulators in Kazakhstan currently differentiate risk in residential mortgage loans, using risk weights of 50% and 100%. Residential mortgage loans that meet the "definitions and requirements of the Kazakhstan Mortgage Company" (KMC) receive a risk weight of 50% (from the NBK Risk Weight Table, Group III, # 43). All other residential mortgage loans now carry a capital charge of 100%. Thus, implicitly, NBK differentiated risk in residential loans by LTV, as KMC requirements include an LTV of .70 or less.

Proposed Policy for Risk Weights in Kazakhstan. The establishment of the Guarantee Fund for Mortgage Insurance -- the FGIC -- provides the National Bank with an additional tool with which to address risk and fine tune the FSA's regulatory policy for residential mortgage loans. It also offers KMC an opportunity to expand the definition of the loans meeting its requirements.

We propose that FSA explicitly include both the LTV level and MI in the risk weight decision for residential mortgage loans. The proposed risk weights would be:

- (1) Risk weight = 50% for:
 - € Loans with LTV of .70 or less⁶,
 - € loans with LTV > .70 having MI from FGIC or other entities authorized to provide MI;
 - € other loans with MI from FGIC;
- (2) Risk weight = 100% for:
 - € all other loans

⁴ Table 1 includes information prepared by GE Capital indicating the EU countries where GE has already established MI operations or is currently in the process of setting up an MI facility. Other international private mortgage insurance companies are also active in the EU and elsewhere.

⁵ For loans with LTV exceeding .80, the secondary market institutions will also accept other credit enhancements as long as they are as good or better than MI (in practice, AA rated or higher

⁶ AS presently stated, loans must meet the requirements of KMC to receive the lower risk weight. The key parameter is LTV < .70; other guidelines should ultimately be decided by FSA.

The risk weight rules should be determined by FSA and may be updated as experience and circumstances dictate. Also, FSA must determine policy toward loans with “down payment” insurance, as described in Section II above. We strongly recommend that loans insured by companies not meeting the regulatory standards proposed for FGIC *do not* qualify for a reduced risk weight. FGIC mortgage guarantee insurance, by adding independent capital to the mortgage lending system, effectively removes risk from a bank’s balance sheet by sharing the credit risk. At present, this is not clearly the case for this “downpayment” type insurance.

IV. The Roles of KMC and FGIC in Expanding Residential Mortgage Lending.

KMC and FGIC will play different but mutually supportive roles in developing the residential mortgage market in Kazakhstan. KMC both provides long-term funding to the market and, in this newly developing market, plays a key role in setting standards for loan quality through its rules for loans that it will purchase. FGIC’s role, on the other hand, is to share credit risk with lenders. FGIC will employ prudential underwriting standards (initially based largely on KMC rules) in determining loans eligible for MI, and thereby increase the pool of high quality loans available for KMC purchase.

In the U.S., MI increases the pool of loans available to the secondary market. Approximately 25% of the loans purchased by Fannie Mae and Freddie Mac have mortgage insurance and approximately 85% of the loans insured by private MI companies are sold to Fannie and Freddie. Fannie and Freddie would, in fact, lose a significant amount of business without the MI credit enhancement. Similarly, the U.S. mortgage guarantee insurance companies would lose market share if they did not cater to the standards and eligibility rules for Fannie and Freddie loan products. We see no reason why this should not be the situation in Kazakhstan. Notably, however, the regulatory risk weight rules in the U.S. (and elsewhere) are based on LTV and MI, and do not generally include any of the other underwriting criteria employed in the secondary market or mortgage insurance industry.

Issues in Determination of Residential Value in Kazakhstan. Finally, in discussing of the risk weight rules based on level of LTV, it is clear that there is concern in Kazakhstan that the determination of LTV may be subject to a variety of methodological problems in the valuation process and/or that the recordation process is flawed or non-transparent.

The standard definition of LTV is loan amount divided by the lesser of sales price or appraised value. LTV determination should be made by the lending bank. The bank regulator, however, can audit and comment on valuation practices that do not appear to be correct. In Kazakhstan, there is concern regarding the accuracy of value determination and also that the actual sales price is not being reported. Generally, lower than actual values are being recorded. This situation “benefits” the regulator in the sense that the LTV becomes more conservative than otherwise. In the long-term, however, market expansion will of course suffer.

Summary. The discussion now surrounding Basle II illustrates the importance of considering within-class variances in risk. The MI approach for guaranteeing higher LTV residential mortgage loans is consistent with, and supportive of, Basle II. To be of maximum effectiveness in expanding mortgage lending, MI should be a broadly used tool. The capital adequacy of all entities providing MI is an important long-term concern. The capital relief incentive for higher LTV loans carrying MI can be an extremely important incentive to make loans affordable and reach out

to households who otherwise would not be granted loans.⁷ The introduction of MI via FGIC will encourage rapid expansion of the mortgage market.

**Table 1:
Regulation of Mortgage Guarantee Insurance and Residential Mortgage Loans in Selected Countries**

Country	Capitalization of Mortgage Insurance		Monoline Status of Mortgage Insurance	Risk Weight = 50% for LTV and MI combinations	Risk Weight = 100%
United States	Private MICs FHA	\$13B \$22B	Yes Yes	LTV < .80; LTV > .80 + MI	LTV > .80 and no MI
Canada	Private Government	\$1.4B reserve fund	Yes Yes	LTV < .75 LTV > .75+ MI	LTV > .75 and no MI
Australia & New Zealand	Private MICs	\$367M	Yes	LTV < .80 LTV > .80 +MI	LTV > .75-.80 and no MI
South Africa	NGO	\$25M	Yes	n.a.	n.a
Israel	Private	\$11M	Yes	LTV < .70 LTV > .70 + MI	LTV > .70 and no MI
Hong Kong	Government/Private		No	LTV > .70 LTV > .70 + MI	
Philippines	Government	\$109M	Yes	n.a	
Lithuania	Government	\$4.5M	Yes	n.a.	
Netherlands	Government Private established 2002	n.a	Yes Yes	LTV < .75	Portion > .75
Spain	Private established 2002		Yes	LTV < .80 LTV > .80 + MI	Risk weight = 110%: LTV>.80
Sweden	Private being considered		n.a.	LTV < 1.00	
Portugal	Private being considered		n.a.	LTV < .75	Portion of LTV > .75
Germany	Private being considered		n.a.	LTV < .60	Portion of LTV > .60
Austria & Luxembourg	No MI		n.a.	LTV < .60	Portion of LTV > .60
Kazakhstan (current policy)	Government Private		Yes No	Meet KMC requirements	All other loans
Kazakhstan Proposed policy				LTV < .70; LTV > .70 + MI from FGIC; Other loans with MI from FGIC	All other loans

⁷ International private mortgage insurers, who are increasingly involved in EU nations, may not consider investing in the country unless the risk weight framework includes an LTV + MI structure defining loans carrying MI that receive the favorable capital treatment.

November 2003

**An Assessment of Real Estate Market Conditions, Registration
Processes and Relevant Laws
Affecting Ownership Title**

With a Focus on Housing in the Urban Areas of the Republic of Kazakhstan

Prepared by

Stewart Information International, Inc.

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SUMMARY/OUTLINE

1. CONCLUSIONS AND RECOMMENDATIONS: Legal/regulatory assessment and site visits indicate Kazakhstan has structure and processes to immediately facilitate emergence of a title insurance industry. Main conclusions and recommendations:

- € Title insurance industry will emerge in Almaty: *Two-day seminar on standardization and other topics to ensure integrity and confidence in title insurance is needed.*
- € No state guaranty fund to cover title defects resulting from registrars' errors or omissions: *Facilitate title insurance to fill this void.*
- € Title insurance should be regarded as guaranty (not insurance): *Decree recognizing the product as a guaranty is desirable.*
- € Family members' joint ownership of privatized housing, consent from each family member needed for transactions; could be problematic as real estate market develops,: *Give owner and spouse right to sell unit without consent of co-owning family members, but must divide and pay proceeds evenly with all co-owners.*
- € Unauthorized constructions should be legalized under general amnesty program: *Streamline registration procedures and implement on systematic and mass basis, with some technical assistance, at pilot level.*
- € Condominium law is needed
- € GosAkts (certificates issued by land committees) and inventorization should be eliminated altogether in secondary transactions.
- € Unify Land and legal cadastres under one umbrella: *At the very least, set up direct linkages between registry centers' and land committees' databases.*
- € Registry centers perform too many functions unrelated to legal registration: *Remove extra functions to private sector, have centers focus on registration-related tasks.*
- € Registration fees should be retained by registry centers, not central budget.
- € For purposes of property taxation, land ownership should be a prerequisite: *Permit tax authorities to register ownership of homeowner without homeowner's consent. Implement on systematic basis, with some technical assistance, at pilot level.*
- € Too much land associated with enterprises, and farming is in state ownership: *Privatize as soon as possible; adopt new laws, streamline procedures, and implement with some technical assistance at pilot level.*

2. REAL ESTATE OWNERSHIP

- € Virtually all urban houses and apartments are privately owned;
- € Banks require privately owned land for mortgaging purposes;
- € Citizens entitled to receive, free-of-charge, one housing plot ; and
- € Confusion over whether new GosAkt is required in secondary transactions.
- € State still owns enterprise land and much agricultural land; needs to be privatized.

3. MORTGAGES

- € Mortgage loans are being processed and registered at registry centers daily;

- € Foreclosure is clearly possible; banks and courts lack experience in this regard;
- € Bankers, insurance executives and others understand and want title insurance;
- € Some insurance companies plan to issue title insurance policies soon;
- € Kazakhstani Mortgage Company seriously considering requiring title insurance?
- € Lack of state guaranty fund motivates some insurers to provide title insurance;
- € Gap coverage is being considered during period between closing and registration.

4. CENTERS FOR REAL ESTATE REGISTRATION.

- € Real estate registration system is standardized, well organized, modern and efficient;
- € Staff is young, well trained, and client oriented;
- € Registry centers are largely self financed at oblast and municipal centers;
- € Speedy reception, processing, registration and certification of transactions;
- € Consumers have confidence in current registry practices;
- € Bankers, real estate service providers, and insurers have confidence in registry;
- € No linkages between the databases of the land committees and registry centers;
- € Many of the centers' non-registration functions should be transferred to private sector.

5. LAND COMMITTEES AND GosNPTsZem.

- € More “soviet” orientation and structure, less well-trained staff;
- € Prospects for self sufficiency are remote;
- € More focused on supporting state needs, as opposed to the private sector;
- € Offices generally in disarray;
- € Management excessively focused on technical issues and monitoring, rather than on enhancing property rights in land;
- € Badly needed linkage lacking between registry centers’ and committees’ databases.

6. LEGAL/REGULATORY ASSESSMENT IN THE CONTEXT OF SITE VISITS

- € Current laws support private ownership of houses, apartments, and associated land plots;
- € Current laws/procedures facilitate mortgages and sales among private parties;
- € Registration of housing transactions is taking place, but some needless technical and bureaucratic prerequisites have crept into the registration process.

6.1. Constitution - protects property rights, no impediments found

6.2 Civil Code - generally sound with regard to property rights, some hindrances:

- € Presumes joint ownership by family members of each privatized housing unit, requiring consent of each (including those abroad) for any transactions;
- € Inheritance provisions problematic with privatized housing, where one family member dies -- heirs inherit his/her ownership share, increasing number of owners;
- € Amnesty should be considered for most unauthorized homes, coupled with a mass ownership registration program, requiring technical assistance;

- € Bankers and other real estate market participants not concerned about unauthorized constructions, concentrating their services on those properties that have been legalized;
- € Confiscation of property for "other legal violations" can be problematic –overbreadth.

6.3 Land Code

- € Separate Land Code not needed, ownership provisions should be in Civil Code;
- € Condominium law badly needed;
- € GosAkts in secondary transactions is a wasteful, duplicative step;
- € State takes plot if usage is "inadequate,"misused, or for "other violations" – overbreadth;
- € Land Code provides land committees with vague and overly broad authority that encroaches upon registry centers' functions.

6.4. Law on State Registration of Real Estate Transactions

- € Sufficiently straightforward;
- € Centers perform too many non-registration functions, e.g., inventorizations, appraisals;
- € Inventorization should be eliminated as a prerequisite to transferring ownership;
- € Allow registries to retain fees for registration-related services.

6.5. Law on Mortgage of Real Estate

- € Straightforward and is being thoroughly implemented in Almaty, Astana and elsewhere;
- € Each registry center has experience in registering mortgage loans against real estate.

6.6. Tax Code

- € Registered land ownership should be prerequisite to property tax. Current version taxes land users as if they own the land; motivates the state to retain ownership but still tax;
- € House and land are treated and taxed according to different methods;
- € Ad valorem property tax should be introduced for land and house as one unit;
- € Mandating that registration fees be paid to state budget, not to registry centers, motivates the registry centers to generate revenues from non-registration activities.

6.7 Law on Housing Relations

- € Family joint ownership of privatized housing reinforced by Law, when should be curtailed;
- € Generally poses no burdensome obligations on landlords when evicting tenants or on banks when foreclosing;
- € Provides for housing associations, falls short of providing for condominium associations.

SCOPE OF ASSESSMENT

Under the USAID/CAR Financial Sector Initiative (Contract No. 115-C-00-00-00017), Stewart Information International, Inc. prepared, with The Pragma Corporation, this assessment of the current real estate registration system and the real estate market in the Republic of Kazakhstan. In addition to analyzing the current situation and conditions pertaining to real property registration, this assessment identifies the requirements for the emergence of a private title insurance industry in Kazakhstan. Specifically, the assessment:

- Evaluates and reports on the current property registration system, based on a regional sample of conditions in the cities and towns of Almaty, Astana, Atyrau, Pavlodar, Kokshetau, Koktal, and Sharbakty;¹
- Makes recommendations for changes and conditions necessary to facilitate further real estate market development and the establishment of a title insurance industry.

In fulfilling this scope, the Team also met with interested local insurers, bankers, notaries, registrars, and other professionals involved in real estate to describe the risks/rewards of title insurance as a product.

This assessment focuses on detached single-family houses and private apartments located in urban areas. The scope of this assessment does not include rural residential, commercial, industrial or agricultural properties.

1. CONCLUSIONS AND RECOMMENDATIONS

Based on our review of the legal and regulatory structure and visits to seven different locations located throughout Kazakhstan, our findings indicate that Kazakhstan has a structure and processes in place to immediately facilitate the emergence of a title insurance industry. The structure may be further enhanced with minimum technical assistance and adjustments in some laws and regulations. Overall, Kazakhstan is more advanced for facilitating a title insurance industry than are other CIS countries. Indeed, the Kazakhstani registration system is state-of-the-art and resembles some of the best systems seen throughout the world.

- **A title insurance industry is about to emerge in Almaty.** Two insurance companies have already drafted procedures and manuals for underwriting and issuing title insurance policies. The insurance companies are wholly owned by banks issuing mortgage loans. At least one insurance company has submitted procedures to the National Bank for review and approval. For foreign title insurance companies, perhaps joint ventures or a reinsurance program should be considered. Further, it was reported that the Kazakhstani Mortgage

¹ See Annex B for a listing of the names and titles of individuals with whom we consulted in preparing this Assessment.

Company is considering making title insurance a requirement for purchasing loans. As the industry emerges, however, it will be incumbent upon the Government to develop regulations that are fair and standardized.

Recommendation: Consider hosting a two-day conference on title insurance, involving representatives of the Ministry of Justice, National Bank, KMC, Centers for Real Estate Registration, National Agency for Land Resource Management and interested insurance companies, mortgage companies, banks, real estate professionals, notaries and lawyers. The agenda should address standardization, model regulations, and other topics to ensure integrity and confidence in title insurance.

- **No guaranty funds or reserves are in place.** Although the state essentially is responsible for the work performed by the state-employed registrars, the current legal environment does not provide for a guaranty fund or reserve for purposes of indemnification and quicker correction of title defects resulting from registrars' errors or omissions. In the event of a title defect resulting from an error by a registrar, an individual typically attempts to correct the defect directly with the registry center. If an agreement on correcting the defect cannot be reached, then the individual proceeds to sue the registry center in court for damages or restitution. In such a case, the citizen is essentially suing the state, which has not set aside any sort of fund or reserve to cover title defects resulting from mechanical or human errors on the part of the state. Similarly, no law or decree establishes indemnification funds for notaries or lawyers.

Recommendation: Title insurance could and should be introduced not only to cover errors and omissions by registrars, but also to provide consumers greater security in their property rights. Title insurance would also provide banks with greater confidence in the priority position of their mortgage liens and would better enable banks to sell their mortgages in the secondary market.

- **Title insurance should be regarded not as an insurance product but as a guaranty.** Local legal experts from insurance companies have properly begun to recognize title insurance, not as "insurance" but as a "guaranty." In countries such as Poland and Georgia, the relevant regulators concluded that the product is a guaranty and not insurance, based on the reasoning that insurance ordinarily concerns a future risk; whereas, title guaranty is historical in nature and focuses on the possibility of past claims arising and affecting title. By regarding the product as a guaranty, a company offering such a product would be free of some unnecessary insurance regulations.

Recommendation: Since no regulations are in place regarding title insurance, the National Bank and other relevant governmental institutions should consider adopting a set of regulations that regard title insurance as a guaranty, not insurance, thereby freeing it from the heavy regulatory oversight ordinarily imposed on insurance providers.

- **Joint ownership by family members of privatized housing will become increasingly problematic as the real estate market develops further.** Kazakhstan's granting of state-owned housing units into the collective ownership of family members residing in the unit, or temporarily absent from it, could prove problematic in the near future, as the volume of transactions with houses and multi-residential units continues to increase, particularly in Almaty and Astana. Collective (family) ownership of housing units will probably begin to impede transactions and registration processes, since written consent of each family member is necessary -- even if the family member temporarily resides outside the country - for any sale or mortgage of the property. Moreover, notaries and registrars could become increasingly burdened with authenticating the written consents of each relative; the frequency of errors and omissions will likely increase as the volume of housing sales and mortgages dramatically increases, and pressures remain on registrars to register complete transactions registrations within five days. In some cases, the errors might not be detectable for years after the housing unit was mortgaged or sold. In Moscow, situations abound where a temporarily absent relative returning to Moscow challenges a sales transfer that took place years ago, though the apartment unit was subsequently sold to a third owner. Fortunately, this problem is restricted only to privatized housing units. Those housing units that were never state owned ordinarily are owned by one person or a married couple.

Recommendation: The Civil Code and other laws should be amended to empower the heads of families, together with their spouses, to sell or mortgage the privatized units, without the consent of the other co-owning family members. Alternatively, the laws could be amended to provide that written consent of the spouse is only necessary and that consent is presumed to be granted by other family members, unless they challenge the transaction within a short but fixed time period prior to registration. In the event of a sale, the proceeds should be split among the family members in equal shares, unless otherwise agreed. Such legislative changes would simplify transactions processes with privatized housing and, ultimately, change the nationwide pattern of collective ownership of housing.

- **Unauthorized constructions should be legalized under a general amnesty program, involving mass ownership registration.** The term "unauthorized construction" consists of various degrees. In the clearest case, a construction is regarded as unauthorized if it were sporadically built on a land plot without any sort of approval, or it was built in a manner that substantially deviates from construction permits issued prior to its construction. On the other end of the spectrum, an unauthorized construction could include those rural single-family dwellings for which the owners have not bothered to register their rights because they did not want to travel to the rayon center to register or because they are missing one of the many required documents needed for an updated construction authorization. This is probably the case for most homes located in rural areas. At any rate, the Center for Real Estate Registration will not register ownership rights until a certain construction deviation was corrected or a missing document was found.

Recommendation: A law should be adopted that would give amnesty for non-legalized residences built prior to a fixed date, in a manner that is as automatic as possible and at no cost to the homeowners. This should encompass having the registry centers conduct initial registration of the properties systematically and on a massive scale. Such an amnesty and mass registration program would undoubtedly bring hundreds of thousands of homes into the economic mainstream, especially those located in rural areas and urban outskirts. This would result not only in a massive number of properties being entered into the registration system for the first time, but such a mass legalization/registration would also “release” the capital that is in these homes, allowing rural dwellers legally to sell or mortgage their properties. In the more remote rayon of Sharbaky in Pavlodar Oblast, for instance, the registrar reported that fifty homeowners initially registered their homes in order to mortgage them for credit used to purchase farm equipment and other purposes. A mass program, such as what is proposed here, would similarly provide hundreds of thousands of individuals greater access to the capital in their homes and enhance the development of a title insurance market.

- **Condominium law is needed.** Current Kazakhstani laws provide for owners of units within a multi-residential structure to form an association as they please; however, the laws do not allow for the formation of condominium associations, as they are known in the West. Although the terms “condominium” and “condominium item” are used in various legal texts, no law provides for a condominium association to own common elements, to set fees and assessments to cover maintenance, repairs and renovations, and enforce their payment. In many countries, a condominium association may file a lawsuit against a unit owner who is delinquent in fees payable to the condominium association, and, if successful, may have a judgment lien registered against the individual’s unit and eventually foreclose upon the encumbered unit. Instead, the Civil Code, Land Code, Law on Housing Relations presume that each unit owner must consent to the management of the common elements and do not provide sufficient authority to housing associations.

Recommendation: A condominium law is needed to allow unit owners to set up an organizational structure for maintaining common elements, making decisions on improvements and collecting fees from members. Without a condominium law, unanimous consent is required from all unit owners for certain expenditures and improvements, rendering governance, maintenance, payment collection and enforcement very difficult, usually contributing to decay of common elements. The Civil Code, Land Code, Law on Housing Relations should be amended to give unit owners the choice to form condominium associations.

- **GosAkts (certificates issued by land committees) should be eliminated altogether in secondary transactions.** GosAkts should be regarded as deeds transferring to homeowners state-owned housing plots located underneath and surrounding their houses, rather than as certificates of land ownership. According to current law, they are required when the state first grants a housing plot to a private homeowner and probably are required in secondary transactions. (Legal experts from registry centers and land committees differ

in their interpretations on whether GosAkts are required in secondary sales and other transactions.) Land committees, some notaries and registrars have been advising purchasers of private houses to obtain new GosAkts in secondary transactions. Regardless of whether a GosAkt is specifically required by law, this step is clearly superfluous, since the real estate registration centers – not the land committees -- are charged with registering ownership rights to houses and plots on which they are located. The registry centers also issue certificates of ownership of real estate. To alleviate this source of delay and cost, state land committees should be prohibited from issuing any GosAkts or certificates related to secondary real estate transactions. Such a measure would very likely save up to 30 days on each transaction, as well as costs associated with preparing the GosAkts.

Recommendation: A decree should be issued or relevant legislation amended to specify that once individuals receive GosAkts privatizing the land associated with their houses, they are not required to obtain another GosAkt in any secondary transaction with the property. In essence, the option of receiving GosAkts in secondary transactions should be eliminated altogether to avoid confusion and corruption. The decree should also order registry centers to provide the land committees updated land ownership data on a regular basis to ensure that the land cadastre coincides with the centers' legal cadastre. In addition, an information campaign should be directed at notaries, registry centers, land committees and the public that GosAkts are no longer necessary once the land is privatized and that all legal information on a parcel and structure shall be obtained at the relevant Center for Real Estate Registration.

- Inventorization should be eliminated as a prerequisite to the registration of rights arising out of real estate sales and other transactions. Virtually all houses and apartment units registered at the centers for registration already have a “technical passport,” which is document that contains a technical description of the premises, an inspection report, exterior and interior plans, and other data on the construction. The procedure for preparing the technical passport is known as “inventorization.” To require an elaborate inventorization process for each and every transaction is wholly unnecessary and wasteful. Existing technical passports should suffice. If there is a problem with an unauthorized alteration of the structure or parcel, this should be a matter for the local architectural authorities or some other enforcement body to address and resolve. In addition, the private parties themselves should decide on whether and to what extent an inventorization is necessary. This should not be a registry function. Although some registry centers reported that inventorization is usually completed within five to ten working days, real estate practitioners and private individuals advise that one ordinarily waits up to three months for the center to complete an inventorization of the structure and premises. Since there are no regulatory or legal requirements that set a deadline by when the center must complete the inventorization, ownership transfers, hence, are often delayed.

Recommendation: For all structures that are already registered in the centers for real estate registration, inventorization in subsequent transactions should no longer be

required, unless the parties agree otherwise. Centers should be precluded from advising applicants to have center specialists perform the inventorization.

- **Unify Land and legal cadastres under one umbrella.** Some of the Land Code provisions on the land cadastre resemble strongly those that pertain to registration, which leads to confusion in the marketplace, as citizens often regard both the land committees and centers for real estate registration each as registries. The land committees' land cadastre should serve as a supplier of graphical and other land information needed to support legal rights, while the registry centers should contain the legal cadastre. Presently, there is much waste, duplication of efforts, duplicate parcel files and archives, most of which could and should be merged into one unified system.

Recommendation: To minimize confusion and abuse and to reduce transactions costs, the databases of the land cadastre should be merged with those of the legal cadastre, preferably, under the administration of the Centers for Real Estate Registration. The status quo creates an impression of two registries, leading to confusion, corruption and distraction from land market development.²

- **Centers for Real Estate Registration perform too many functions unrelated to legal registration.** Registry centers perform inventorizations, appraisals, and collateral registration for movables, in addition to ordinary registration functions. As the volume of real estate transactions increases drastically, these other functions may distract the centers from their primary function, leading to delays and possible inaccuracies.

Recommendation: The Centers for Real Estate Registration should no longer be registering collateral rights to movables, or conducting appraisals and inventorizations. These functions should be removed from the registry centers and transferred to a competitive private sector or elsewhere. Further, formation of a separate movable property collateral registry, such as one found by UCC -9 in the United States, should be contemplated.

- **Registration fees should be retained by registry centers.** Since registry centers currently depend on revenues from these ancillary functions, it would also be important to allow the registries to retain in their budgets all fees for registration, issuance of information sheets (*spravki*) title abstracts (*vypiski*), non-notarial transactions, and other activities more directly related to registry functions. Presently, registry centers are surviving financially from revenues generated by inventorizations, appraisals, and some other functions not related to registration. The Tax Code's requirement that registration fees be paid directly into the state budget, and not the budgets of the registry centers, motivates the centers to generate revenues from multiple activities outside the scope of registration. Like with inventorization, many of these non-registration activities represent needless technical and bureaucratic prerequisites that have crept into the real estate

² The World Bank has reached a similar conclusion and recommendation in its Implementation Completion Report (June 1 2001)

transaction processes. With proper regulatory oversight, Oblast and municipal registry centers could become fully self-financed by performing registration-related functions.

Recommendation: The Tax Code should be amended to allow the registry centers to retain all revenues generated from registration and activities directly related thereto.

- **For purposes of property taxation, land ownership should be a prerequisite.** By permitting the state to tax land users as if they own the land motivates the state to perpetuate its ownership of land and not to privatize it. As a matter of fairness and sound public policy, registered *ownership* should be a prerequisite to property taxation. If the state does not want to release its ownership, then it should not be entitled to tax revenues on the property it owns.

Recommendation: In those cases where the homeowner has not bothered to register his/her rights to the land, the tax authorities should be permitted to obtain a GosAkt for the homeowner with or without the owner's consent and register the resulting land and house ownership at the appropriate registry center. Such an amendment to the Tax Code would encourage (i) further privatization of state-owned land (ii) increase the number of legalized houses with plots; and (iii) fair taxation policy based on legal ownership.

- **Land associated with all houses, enterprises, and farming should be privatized as soon as possible.** The current situation involving spots of privately owned housing plots, located near state-owned land in private use, such as commercial-industrial land, will create greater market distortions as the housing market develops. It may make greater sense to privatize land associated with enterprises and allow the new land-owning enterprise to decide whether to subdivide the land into residential plots or to reinvest into the land to enhance business operations. By keeping this land in state ownership, the plots are likely being underutilized from a market standpoint.

Recommendation: The state should seriously consider privatizing land associated with enterprises, farms and any other housing in a manner that is rapid, inexpensive, and of little or no cost to the recipients to ensure that as much land as possible becomes privately owned.

2. REAL ESTATE OWNERSHIP

In Kazakhstan, private ownership of housing real estate has irreversibly replaced the soviet system of state ownership. In this regard, Kazakhstan is more advanced than other CIS countries. The Government of Kazakhstan has taken the important step of privatizing rural and urban land underneath and surrounding single-family homes and multi-housing complexes. This is not the case of some ex-communist countries, where the state often retains ownership of land associated with private housing in urban areas.

The regime of ownership of land with the associated house or structure is already facilitating the rapid development of a housing market in Kazakhstan, where leasing and sales transactions have become a daily activity at all levels of society. The public recognizes this right, and many owners are exercising their ownership rights as a way of improving their lot in the social structure.

The importance of land ownership cannot be understated and is a primary factor in the growth of transactions in the housing market and the accompanying increases in housing values. In some registry centers, homeowners are already selling their newly privatized residences and purchasing and relocating into larger and improved homes. This importance of land ownership is further illustrated by the fact that banks issue mortgage credit secured by single-family houses only if the land associated with the house is owned by the borrower. Banks have reported that they will not make loans secured by houses still located on state-owned land. In short, land ownership has become a widely recognized prerequisite to real estate market development in Kazakhstan.

Ownership of Housing Structures and Land

Virtually all houses and multi-residential units are privately owned in cities and other urban areas. Most privatized houses and apartment units today remain in the joint ownership of family members as a result of the various housing privatization programs, starting as early as 1991. For multi-residential structures, the unit owners each are entitled to an ownership share of the land and common elements.

Citizens are entitled to receive, free-of-charge a land parcel servicing their single-family residence by applying to the relevant akimat and receiving from the territorial state land committee a certificate of land ownership and usage (commonly referred to as a “GosAkt”), upon an affirmative resolution by the akimat. In urban areas, virtually all eligible owners of single-family residences obtained GosAkt. In rural areas, many, if not most, eligible homeowners have not yet obtained GosAkts for the land on which their houses are located because, according to some registrars, rural dwellers ordinarily register their property rights only when a transaction or inheritance is taking place. Most rural homeowners are not willing to travel to the rayon center to register their ownership rights, unless they deem it necessary.

Furthermore, much confusion abounds over whether home purchasers must obtain a GosAkt when purchasing a private house, with its land, in a secondary transaction. Specialists and registrars at some centers clearly stated that GosAkts were not required in secondary transactions, while most of the land committees emphasized the purchaser must obtain a GosAkt. Often, in one region, the land committee and the registry each have a parcel file in their archives on the same piece of property. Due to lack of certainty, citizens apparently utilize the services of both institutions, when they should only be registering their rights at the registry centers. The procedures for obtaining a GosAkt are illustrated in the flowchart in Annex C.

While the growth of the housing real estate market is impressive, Kazakhstan's continued transition to a market economy could be inhibited, unless the state privatizes other lands in private use. This especially relates to agricultural and commercial-industrial land; the latter is almost exclusively in state ownership throughout the country. This perpetuation of state ownership very likely contributes to the stagnation of rural development and the depression of rural land markets, where real estate values remain very low, not to mention the fact that banks are generally reluctant to collateralize rural land for construction of housing and industrial plant expansion. In this respect, Kazakhstan lags behind countries such as Moldova and Georgia.

3. MORTGAGES

Banks indicate that hundreds of mortgage loans are being processed daily in Almaty alone. In major banks, such as Kazkommertsbank and BTA, entire halls or rooms with service windows are dedicated solely for closing real estate sales transactions involving purchase-money mortgages. The charts in Annex D describe the key steps and fees for acquiring detached houses and apartments in Almaty using purchase-money mortgages.

In addition, volumes of files for registration of mortgages were apparent in most of the centers visited, particularly in Almaty, Astana and Kokshetau. The number of mortgage loans for purposes of acquiring housing has been increasing drastically in Almaty and Astana.³ In addition, mortgage certificates are being sold in the secondary mortgage market.

Banks have noted that foreclosure is possible without restrictions typically found in laws of other ex-communist countries, such as laws requiring banks to provide alternative housing to borrowers whose houses are being auctioned as part of a foreclosure proceeding. It remains to be seen how courts enforce this, as banks have little or no experience with foreclosures.

Title Insurance and the Mortgage Market in Kazakhstan

Bankers, insurance executives, realtors, and notaries have a thorough understanding of title insurance and its benefits and have expressed a desire for title insurance services in Kazakhstan. Some insurance companies, which are wholly owned by major banks, are interested in commencing their title insurance businesses and are planning to issue title insurance policies either by year-end or early next year. At least two have already developed their own sets of rules, procedures and manuals for underwriting, pricing and processing title insurance applications. At least one insurance company has submitted its draft procedures for title insurance to the National Bank for review and approval. Once

³ Indeed, out of the twenty-five registrars at the Almaty registry center, five are dedicated solely to registering mortgages and pledges.

approved, this insurer plans to start issuing policies in December 2003. At any rate, a title insurance industry will undoubtedly emerge by mid 2004.

Once the National Bank approves the title insurance procedures of the insurance companies, some banks reportedly will require title insurance as a condition to issuing primary mortgage credit. Furthermore, it was reported that the Kazakhstani Mortgage Company is seriously considering requiring title insurance as one additional prerequisite for its secondary mortgage purchases.

One factor that is motivating certain insurers to enter into the title insurance business is that Kazakhstan has no guaranty fund or reserve to cover errors and omissions by the state-employed registrars. One insurance representative noted that, although the Centers for Real Estate Registration are functioning, as the real estate market booms, the frequency of mistakes will naturally increase, and, therefore, title insurance is critically necessary at this juncture. Another noted that the centers could become overwhelmed with the volume of applications and could start to delay registrations and, thus, gap coverage is being considered as a type of title insurance product. Gap coverage in this case would insure the owners' rights from the moment documents are executed, instead of at the moment of registration.

4. CENTERS FOR REAL ESTATE REGISTRATION.

While private ownership is essential for a market economy, the viability of a real estate market depends on the transparency of registration and transactions mechanisms and the integrity of market participants and institutions. The registration system is important for establishing ownership rights, and is critical for market growth. As stated in the World Bank's Implementation Completion Report (June 1 2001), the registration system must be "accurate, reliable, simple to understand, inexpensive, and quick to be able to provide the services needed." The Kazakhstani real estate registration system is well advanced in meeting this test. Indeed, it is one of the most advanced, state-of-the-art systems of all the CIS countries. It is sufficiently decentralized, automated, and standardized from the oblast and municipal level, down to the rayon levels, with uniformity in its operations throughout the country.

The staff is young, well trained, and committed to being a client-oriented organization that efficiently serves private owners. The registration centers are, in great part, self financed at the municipal and oblast levels, with fees being generated from inventorizations, appraisals, issuance of *spravki* (information sheets) and *vypiski* (title abstracts). The registration process is working well, as indicated by high morale among employees, clean and well maintained working space for both clients and employees, as well as modern equipment and furniture. The workflow is well designed for speedy reception, processing, as well as for registration and certification of ownership rights.

As indicated above, the system is fully operational and market participants have substantial confidence in current practices. In all site visits, hundreds of clients were actively pursuing ownership rights through primary registration (registration of housing and/or land transferred by the state), leasing, secondary sales among private parties, and mortgages. Throughout the country, market participants, such as bankers, real estate service providers, and insurers, expressed confidence in the registration process.⁴

The Kazakhstani registration system consists primarily of textual data that describes the physical and legal status of the property, while the graphic data that spatially locates the property within the overall spatial referencing framework of the jurisdiction are in the local offices of the state land committee or the state land arrangement institute, known as GosNPTsZem. In all parts of the country, no linkages were found between the databases of the land committees and registry centers.

Finally, while the current organization and staffing of the registration centers might be appropriate at this stage of Kazakhstan's development of a private real estate market, many of the centers' functions would be more efficiently carried out by the private sector, specifically inventorizations and appraisals.

5. LAND COMMITTEES AND GosNPTsZem.

Compared to the registry centers, the staff at the land committees and the state enterprises for land arrangement (GosNPTsZem) appear to be substantially less well trained and continue to represent a more "soviet" orientation and structure. Unlike the registry centers, the land committees depend almost completely on the central budget for operations and equipping of their offices. Prospects for self-sufficiency are remote, and most of their functions are designed to support the state, as opposed to the private sector.

The land committee offices generally appeared in a disarray, a holdover from the soviet times. Management appeared excessively focused on technical issues and monitoring, rather than on enhancing property rights in land. Some personnel from the National Agency for State Land Resource Management, the central organ supervising the local land committees, insist that a unified cadastre, including legal and technical information, will be eventually within the purview of the land committees.

Linkages between the databases of the registry centers and the land committees remain either non-existent or informal. For the registry centers to complete a registration, the cadastral number of a parcel is required. Registry centers do not have direct access to any

⁴ The bulk of the registration activity is directed at sales of houses and apartment units. Please see the charts on Annex D, which describe the steps for each transaction, fees and relevant normative acts regulating each step.

cadastral numbers, maps, especially index maps,⁵ and other graphical data that describes the parcel undergoing registration. Thus, the client is required to obtain information from the land committees, GosNPTsZem, and bring that information to the registry centers to register rights arising out of real estate transactions. The level of time wasted and duplication of efforts is excessive and costly, and serves as a disincentive to many landowners to register their rights.

As far as maps are concerned, the rayon land committee offices have been provided with base maps, usually from the Oblast Center GosNPTsZem, and cadastre blocks have been defined and plotted on these maps. The rayon land committees maintain the maps for the settlements within their jurisdiction, issue cadastre numbers, and print GosAkts for land.

6. ASSESSMENT OF RELEVANT LAWS AND DECREES IN THE CONTEXT OF SITE VISITS

This section consists of descriptions and assessments of the laws and decrees pertinent to the development of a housing real estate market.⁶ Laws affecting ownership, transactions and registration of real property rights pertaining to single-family residences and multi-residential units in urban areas are analyzed. Legal/regulatory strengths and impediments are identified, and recommendations are provided for their removal. Laws on ecology, soil conservation, national historic sites, subsurface mineral rights, and lands reserved for military and state purposes are not assessed here.

General Conclusion. For a title insurance industry to emerge and develop, laws must be in place that establish and protect real property rights and allow for real estate to flow through commerce via a sound registration system. Our analysis of legislation regulating real property rights and registration reveals that Kazakhstan's legal environment is generally sound in this respect, and is conducive to the continued development of a private real estate market for single-family houses and private apartment units. Regarding urban housing, we find that (i) current legislation generally calls for private ownership of houses and multi-residential units, as well as the land associated with these structures; (ii) laws and procedures for facilitating mortgages and sales transactions among private parties are generally practical; and (iii) legal registration of ownership rights to and transactions with single-family residences and multi-residential units is taking place under current laws and procedures, but not without some needless technical and bureaucratic prerequisites that have been inserted into the registration process, which are identified below.

⁵ The function of cadastre index maps is to support the information in the legal registry and to ensure that parcels are properly identified, and not duplicated or overlapping.

⁶ See Annex A for list of the key laws, decrees and other normative acts that were reviewed and analyzed in preparing this Assessment.

All Descriptions, Issues/Analyses and Recommendations are relevant only to the housing real estate market formation and development. The cited articles of each law appear in parentheses following the applicable sentence.

6.1. CONSTITUTION OF THE REPUBLIC OF KAZAKHSTAN

Relevant Description

The Parliament is empowered to pass laws regulating property rights (61). Article 6 of the Constitution provides for the equal protection of state and private property, (6.1), while Article 26 specifically protects private property rights, including inheritance. Article 6.3 presumes that the state owns subsurface and other natural resources, but that the resources can be privately owned, if so permitted by law.

The eminent domain clause of Article 26.3 provides the state has the right to take property for "public use in extraordinary cases stipulated by law," per a court decision, and must pay the property owner "equivalent compensation." Article 25 provides that deprivation of housing shall not be permitted "unless otherwise stipulated by a court decision," and citizens in need of housing shall be provided with "housing at an affordable price from the state housing funds. . ."

Issues and Discussion: Based on our readings of the Civil Code and mortgage law, we believe that Article 25 concerns only those situations where the state -- not a private institution -- is taking one's home. Thus, we believe that banks are not required by this constitutional provision to provide housing to defaulting debtors.

Recommendations: None.

6.2 CIVIL CODE (as of October 13 2003)

Relevant Description

The Civil Code contains specific provisions addressing real property rights, transactions and registration of such rights. Article 117 provides that real property includes land and buildings, as well as other fixtures, "the removal of which is impossible without inflicting unreasonable damage . . ." (117.1). Real property rights, including ownership, mortgages liens, and usage rights with terms in excess of one year, are subject to registration (118.1). Real estate transactions are subject to registration (118.3, 155.1), and are deemed legally complete once they are registered. The real estate registries in Kazakhstan must be public and accessible "to any person." (118.5).

Ownership

The general provisions in Chapter 8 of the Civil Code recognize the right to own property and set some obligations of property owners. (188-191). If two or more persons receive property that cannot be divided without changing its designation, or may not be divided by rule of law, that property is legally recognized as in common ownership (209.4) Common ownership (209.1) may be in the form of "shared ownership" or "joint ownership." (209.2). If each of the owners has a specified share in the ownership of the property, then that ownership is "shared;" otherwise, if the shares have not been specified, then the form of common ownership is "joint." (209.3)

Ownership of Detached Single-Family Residences and Multi-Residential Units

The Civil Code presumes that common ownership is "shared", except in those cases where a law stipulates joint ownership, such as ownership of privatized housing. (209.3, 219.1.3, 194) During the housing privatization programs, in accordance with Article 227, ownership of state-owned residences (apartments and houses) was transferred into the *joint* ownership of the tenant and his/her family members who permanently reside with him/her, including minors and those family members who were "temporarily absent." (219.1.3, 227) Thus, the law establishes that family members have joint ownership of the formerly state-owned unit or house, unless otherwise agreed among the family members. (220.1)⁷ Consequently, selling or otherwise disposing of the residence, requires written consent from each family member (220.2). Article 220.3 further stipulates that for purposes of *registering* the rights arising out of a transaction with a jointly owned residence, each family member must consent in writing to the transaction. If one family member enters into a transaction without the consent of all the other family members who are co-owners, the non-consenting family member may petition the court to nullify the transaction on the grounds that the transacting family member was not authorized to enter into the transaction. (220.3, 304) For the court to invalidate the transaction, it must determine that the transacting family member either knew or should have known that he/she was not authorized to transact unilaterally with the jointly owned house or apartment. (220.3).

Articles 221 and 222 provide rules by which the family members, as joint owners, may divide their ownership interests or sell their share of ownership. In the event of dividing the jointly owned house, the law presumes that each family member has an equal share in the house, unless the family members otherwise agreed. (221.2) The process involves transforming the ownership of the house from joint ownership to shared ownership via an agreement among all the family members, which permits each member to dispose of his/her as he/she wishes.

For those apartments and houses that never were state-owned, these provisions of the Civil Code do not apply. Most newly built houses and residences are in individual or marital ownership and not in the joint/collective ownership of family members. Similarly, in cases

⁷ See also our discussion on the housing legislation in Section 5.7 of this report.

where family members successfully agree to sell an apartment unit or house, the purchaser usually acquires the residence in his sole ownership -- not in the joint ownership of his family members.

Ownership of Land and Common Elements of Multi-Residential Structures

Pertaining to owners of units located in multi-residential structures, Article 209.6 declares land and common elements associated with multi-residential buildings as the common shared property of the unit owners, though the units themselves are separate, individual property. An owner of a newly built or privatized apartment now owns in common with other apartment owners a percentage share of the land and other common elements associated with the building in which his or her apartment is located. (209) The size of the ownership share is roughly proportionate to the amount of interior space the specific unit covers in relation to the total interior space of the building. For example, if a unit owner's privatized apartment covers a living space of 100 square meters, and the total living space within the building covers 1,000 square meters, he or she then has a 10% percent ownership share of the land and common elements associated with the multi-residential structure, and must bear 10% of the costs for maintaining the common elements. (209.6) However, as a common owner, the unit owner's 10 percent ownership share does not constitute a distinguishable land parcel or area, and the ownership share runs with the ownership of the unit and cannot be separately alienated. (209.6)

Marital Property

Article 223 presumes that property acquired during the marriage by the spouses is deemed as common property of the spouses in equal shares, while gifts and inheritances of a particular spouse, as well as those assets that belonged to the spouses prior to marriage, are regarded as individual property. (223.1, 223.2) Other qualifications and exceptions are provided, but are not relevant to this assessment.

Wills and Inheritance

Sections 1038 through 1045 provide the rules of inheritance, including those on succession, property distribution, determination of estate and heirs. According to Article 1041, if one of the co-owning family members dies, his/her death shall trigger the transformation of the privatized apartment or house from joint into shared ownership, with the ownership share of the deceased passing onto his/her heirs. However, the joint common owner has the right to bequeath his share to whomever he pleases. (1041.2)

Articles 1046 through 1059 address wills and rights of testators and beneficiaries. The testator has the right to disinherit any and all heirs by law. Article 1050 provides that a will must be in writing, witnessed and notarized or the "equivalent of notarized." (1050, 1051, 1052). Other provisions are generally similar to the standard wills and estates laws found in other countries and have no significant impact on real property rights being assessed here.

Adverse Possession

Adverse possession is covered by Article 240. A person who is not the owner of a certain property but "who honestly, openly and continuously possesses [the property] . . . as his own immovable assets for fifteen years" or more shall gain ownership of that real estate. (240.1) The ownership right shall arise at the moment of its registration. (240.2).

Unauthorized Constructions

A residential house or any other immovable asset is regarded as an "unauthorized construction" if (i) it is built on a land plot that is not allocated for residential purposes, or (ii) it is built without obtaining construction permits. (244.1). The person who builds an unauthorized structure does not gain ownership of it, and does not have the right to sell, transfer, lease or conduct any other transactions with it. (244.2) An unauthorized construction shall be subject to demolition at the builder's expense (244.2). Ownership rights to an "unauthorized structure" may be established by a court decision in exceptional cases specified in Article 244.3. The criteria a court must consider in rendering an "unauthorized construction" as private ownership are not clearly spelled out. In practice, the technical documentation and plans for each property – as prepared and archived at the relevant Center for Real Estate Registration -- contain the parameters for determining whether a structure is authorized.

Termination of Ownership Rights

The Code establishes two general categories for termination of ownership rights. The first involves voluntary transfer of ownership, revocation of ownership rights, inheritance and wills, destruction of the property, or losing the property by some legislative act. The second category is more compulsory. Article 249.2 provides that terminating one's property rights is permissible, in the cases of foreclosing upon a claim on the property, confiscating the property due to criminal or "other legal violations" by the owner (249.2, 254), eminent domain (referred to as "reservation") and other cases listed in that Article and mentioned elsewhere in the Code. However, in the event where the state is taking private property, presumably for public needs, the property owner shall be compensated for losses or be granted equivalent property. (249.4, 255) If the homeowner and the state cannot agree to the terms of the "reservation," then the process will be adjudicated by a court. (255.2).

Article 251 allows for a judicial lien to be filed on a property "based on the liability of the owner," and for the forcible transfer of the property to the creditor or aggrieved party to satisfy the amount of the liability. A court can order the alienation of a property if a law is passed that prohibits a person from owning an item of property, even if he/she lawfully acquired that property prior to the adoption of the prohibiting law. (252.1). In such case, the person must alienate the property within one year after the adoption of the legislation. If he/she does not alienate the asset within the time limits specified, then the court may order the alienation with compensation to the owner for "value of the asset, less costs associated with their alienation." (252.1)

Pledges and Mortgages

Article 303.1 provides that a "mortgage is a type of pledge under which the pledged property remains in the possession and use of the pledger or a third person." Among other property items, houses, "apartments in blocks of apartment buildings," may be mortgaged for collateral. (303.1). Article 303.3 provides that, where a property is secured by a mortgage, and if the property may be alienated according to agreement, such alienation takes place subject to the mortgage.

Article 304 reiterates that commonly owned property may be pledged only with the consent of all the owners. As discussed above, in the situation with privatized housing, such a rule requires consent from all co-owning family members in order to mortgage the jointly owned housing unit. Similarly, for land and common elements associated with multi-residential structures, written consent is required from all unit owners in order to mortgage the shared land and common elements.

A pledge agreement must be in writing and shall specify the collateralized property, its value, the pledged amount, and repayment deadline. (307.1). For any pledges concerning real property, particularly mortgages, the agreement must be registered at the appropriate Center for Real Estate Registration. (308.1) Articles 308.2 and 308.3 generally describe the responsibilities of the registrar in registering a mortgage lien, which are articulated in greater detail in the registration legislation. One of the registrar's responsibilities is not to register the transfer of a mortgaged property, if there is no consent of the mortgagee-creditor to its transfer. (308.2). If the mortgagee consents, then the transfer would take place with the mortgage lien still attached to the property. In addition, any assignments of a mortgage must be registered. (308.2)

A person may mortgage her detached single-family residence, so long as the mortgage agreement encompasses a "simultaneous mortgage . . . of the land plot on which the building . . . is located. . ." (309.3) In essence, for one to mortgage his single-family residence, he must register his ownership or usage rights to the land and house at the appropriate Center for Real Estate Registration. Typically, this involves the homeowner privatizing the land parcel associated with the house, by applying to the relevant Akimat to grant him free-of-charge the relevant land parcel and then obtaining from the territorial land committee a GosAkt certifying his ownership of the land parcel. Further, the mortgage right shall arise at the moment the mortgage agreement is registered at the appropriate Center for Real Estate Registration. (310.1)

Article 317 provides for foreclosure on pledged assets in the even of material default. The foreclosure sale of the mortgaged real estate could take place in accordance with judicial procedure (318.1) or non-judicial procedure (318.2), as stipulated in the mortgage agreement. In the latter case, a trustee sells the mortgaged assets through an auction to satisfy the claim. (318.2, 319). The lender-mortgagee has the right to request from the court to delay the foreclosure sale for a period of up to one year. The delay shall not impact

the rights and obligations of the borrower and lender and shall not exempt the borrower from repayment of the debt obligation, lender's damages and any losses that were incurred during the period of delay. (319.3). Articles 319.4 and 319.5 address the rules for holding an auction of pledged property. Article 319.6 provides that where the proceeds from a foreclosure sale do not cover the claims of the mortgagee-lender, the lender shall have the right to receive the deficient amount from other property of the debtor, even if they were not subject to the mortgage (319.6)

When selling mortgaged assets according to a non-judicial procedure, the creditor appoints a trustee, under power of attorney, to conduct an auction to sell the pledged property. (320.1). The trustee shall follow the following general steps:

- (1) prepare a notice of default, submit it to the defaulting borrower and register it at the registry where the mortgage agreement is registered.
- (2) if the borrower does not satisfy the claim within two months after receiving the notice of default, the trustee then prepares a notice of auction of the mortgaged property, registers the notice at the same registry and hands the notice to the borrower.
- (3) officially publish the announcement of the auction in the local press (320.2)

Articles 321 through 326 briefly address various scenarios, including acceleration of loan repayment, termination and assignment, all of which are regulated by the mortgage law, which is discussed below.

Issues and Discussion:

1. The presumed joint ownership by family members of each privatized housing unit could become increasingly problematic as the real estate market develops. In Moscow, we learned of cases where one relative returned to Russia after being abroad for a period of time and had petitioned the court to nullify an apartment sale by her mother, despite the fact that the apartment went through two additional ownership transfers since her mother initially sold it. As the volume of real estate transactions increases drastically in Kazakhstan, particularly in Almaty and Astana, the transaction and registration processes could become bogged down, as notaries and registrars will become increasingly burdened with reviewing the written consents of each relative jointly owning a unit, within the fixed period of five days. Errors and omissions will undoubtedly increase, and delays in the registration process could ensue.

2. The inheritance provisions, particularly in Article 1041, can impede transactions with privatized housing, where one of the family members with a joint ownership interest in a house dies. Granting heirs shares of ownership in the privatized house, along with the existing joint owners' property rights, requires reaching a consensus with an even greater number of owners for transactions with the privatized unit. Experience throughout the world has shown that the greater the number of owners involved, the more difficult it is to reach a consensus on the management, sale and mortgaging of property.

3. If a homeowner were missing only one of many documents needed for a technical passport, his house might be regarded as "unauthorized" and/or "non-legalized," if the relevant Center for Real Estate Registration refuses to register the ownership rights until a certain construction deviation were corrected or a missing document were found.

According to an information release by the press service by the lower house of Parliament, as published in the November 2003 edition (No. 44) of Legal Bulletin, more than three million objects are "subject to legalization". The report indicates that most of the objects are located in rural areas and generally belong to physical persons. A structure that is not "legalized" could simply mean that the owner has not yet bothered to register his ownership rights to it; it could also mean that the structure violates some zoning rules, or deviates significantly from the approved technical plans and documentation on that particularly property. The press release then quotes the working group drafting a law on legalizing these structures, "[a]ccording to the data by statistic, tax, architecture bodies and centers for real estate registration, there are 3,697,274 real estate objects on the territory of the Republic of Kazakhstan and the ownership rights for 1,070,447 objects have not been documented in accordance with procedures established by law. In addition, according to conclusions by international experts, at the present time, approximately 30% to 35% of the non-legalized property is in the shadow economy. One of the main purposes of the draft law is to bring the aforementioned properties into the economic stream. . . ."

However, bankers and other real estate market participants did not express concern to us about the volume of unauthorized constructions. They appear to be concentrating their services on those properties that have been legalized. Real estate professionals explained that the Bureaus of Technical Inventory kept a watchful eye on most constructions in the major urban centers, during the soviet period, and this supervision and monitoring continues today, but under the Centers for Real Estate Registration.

4. The clause authorizing confiscation of property if the owner commits "other legal violations" is overly broad and can lead to abuse of discretion by governmental authorities if it is relied upon to confiscate private real estate. This clause should either be eliminated or defined more specifically.

Recommendations:

1. Since the law already establishes joint ownership of the family members to the formerly state-owned housing, it makes little sense to alter the ownership structure at this point, due to constitutional and other implications. However, the Civil Code should be amended to give clear rights to the heads of families and their spouses to sell or otherwise dispose of the privatized units, without the consent of each family member. In the event of a sale, the proceeds should be split among the family members in equal shares, unless otherwise agreed. Any disputes could be resolved among the family members in a court of law, while the property should be free of any encumbrances relating to the dispute. Concentrating the

power of disposal on the head of the household and his/her spouse will greatly enhance the transactions and registration processes.

2. In the case of inheritance and wills, the Civil Code should be amended to provide that where a an individual with joint ownership rights to a housing unit dies, his ownership automatically transfers to the other joint owners (i.e. family members), unless otherwise agreed upon in writing by the joint owners. Under such a legal scenario, the property would not pass onto heirs, even if the joint owner has a will providing for the transfer, unless and until all the fellow joint owners have provided written consent. This would ensure more rapid transactions with housing real estate, allowing privatized housing to flow more easily through commerce, while lessening the now increasing burden on notaries, registrars and other real estate professionals.

3. A law should be adopted that would grant broad amnesty to non-legalized residences in a manner that is speedy, effective and at no cost to the homeowners, particularly for those residences located in rural areas. Such a law should "grandfather" these structures into the economic mainstream. The main reason for such an amnesty program is quickly to bring the parcels and homes into commerce.

4. The term "other legal violations" should either be more concretely defined or eliminated as grounds for confiscating property.

6.3 LAND CODE (as of June 20 2003)

Relevant Description:

Units Within Multi-Residential Structures

The Land Code defines a "condominium" as "a special form of real estate ownership . . . whereby separate units of real estate are in individual ownership of physical persons and/or legal entities, while those portions of real estate which are not in individual ownership, including a land plot, are owned by them on the right of common shared ownership . . ." (12.18) Furthermore, Article 53.6 stresses that the usage of the commonly owned land and premises requires the consent of all common owners, or, if no agreement can be reached, by decision of a court.

Unit owners are empowered to select the management structure for the condominium elements. (62.5) However, Kazakhstan has no law that provides for the formation of condominium associations, with accompanying provisions on governance, maintenance, payment collection and enforcement. Thus the definition of a condominium in Article

12.18 actually applies to a privately owned unit or privatized apartment unit, and not a condominium in the Western sense of the term.

Land Associated With Single-family Residences and Multi-residential Structures

The Land Code provides that certain land may be privately owned in Kazakhstan and protects such property rights from state intrusion. (3, 5, 20, 21, 23.2, 25.1, 25.2). Article 9.3.1, together with Articles 23.2 and 23.3., provides that the state shall grant land free of charge to citizens of the Republic of Kazakhstan who are owners of detached single-family residences and apartment units. Article 9.5 makes clear that if the homeowner-recipient of the land plot alters the "designated purpose" of the land plot, then he/she must pay to the local budget an amount based on the "cadastre value" of the land plot, the computation of which is addressed in Article 11. Article 9.7 further allows private homeowners to sell or lease their land plots to other parties.

The akimat is responsible for granting state-owned land located within its jurisdiction to eligible homeowners. (19,43.2). In rayon centers, settlements, auls, and other rural areas, the akim, within whose jurisdiction a given land plot is located, shall serve as grantor of the state-owned land. (19, 43.2) The transfer into ownership shall take place via an "act by the state authorities." (22.2) Article 43.9 further stipulates that the territorial office of land committee issues to the recipient a certificate, referred to as an "akt confirming the right of land plot private ownership," commonly referred to as a GosAkt.

Article 50.2 obligates the local authorities to transfer housing plots, by providing that "[l]and plots of the following sizes *shall* be granted to citizens of the Republic of Kazakhstan [on only one occasion] into private ownership free of charge: . . . for individual housing construction, 0.10 hectares. . ." However, Article 50.3 further provides that the maximum size of such a grant shall be jointly decided by the provisional representative and the local executive bodies "in relation to local conditions and special considerations." It is unclear whether 0.10 hectares is the maximum amount of land a homeowner could receive, or whether these governmental bodies could jointly decide to grant more or less land. Article 43.3 describes the contents of the application physical persons must submit to obtain a land parcel in ownership. Article 44.8 addresses the procedure for granting land to private citizens for new construction of a single-family residence; in the application, the individual must attach a document disclosing whether he/she has any other plots to which rights were granted for new construction and whether he/she currently owns a private house.

Article 62.1 provides that "[a] land plot that is needed for placement, functioning, maintenance of a multi-apartment building or another condominium item . . . shall be conveyed into common joint ownership of the premises which encompass the condominium items." This is inconsistent with Article 12.18, which provides that the premises are to be under "common *shared* ownership." However, the effect of this inconsistency is probably inconsequential, since it is of greater import that Kazakhstan

adopts some form of a condominium law. Moreover, this may be a translation error. Article 62.2 specifies that the unit owners each own an inseparable share in the common property associated with the multi-residential structure. As also stated in the Civil Code, the size of an ownership share of common elements is based on the size of the shareholder's living space of his/her unit in proportion to the total living space in the multi-residential structure; and ownership of the common elements - including land -- runs with the unit; thus, when the unit owner sells the unit, his/her common ownership share is sold along with the unit (62.4)⁸

Article 41.4, in relevant part, provides that if a residential housing plot were allotted to a citizen under an employee land allotment program, the rights to that plot "shall be recognized as a kind of long-term gratuitous temporary land use" -- not ownership. Article 41.8 provides that the employee and the state-owned legal entity employing him/her shall enter into an agreement for the usage of the land. Although not entirely clear, it appears that the housing is also owned by the state-owned legal entity, and the law does not address the situation where the state-owned entity is subsequently privatized.

Servitudes/Easements

The Land Code provides that servitudes are for a "limited purposeful utilization." (67.1). The Land Code lumps classical definitions of easements and servitudes, into one definition of servitudes. Servitudes can be created by an agreement between an interested party and property owner, by law, by court decision, or by a resolution of a regulatory body or relevant local executive body. (67.2) Apparently, regulatory bodies may establish a servitude by entering into an agreement with the property owner or by obtaining approval from the local executive body. (67.3, 67.4). In both cases, disputes, refusals of access, or challenges are to be handled in court. (67.3, 67.4) Creation, alteration and termination of servitudes generally must be registered (75.1). The grantor of a servitude (or easement) must certify the land plot plan that shows the affected portion of his land parcel, if the servitude/easement covers only a portion of the grantor's parcel. (75.2). Servitudes and easements created by regulatory bodies or by law need not be registered. (75.3)

Article 68 provides for free movement by physical persons across other people's land parcels, without prior permission, if the owner of the parcel does not close it to the general public and the landowner has not required the person to obtain his permission prior to crossing, provided that no damage results to the property. A private owner shall have the "right to demand . . . limited use rights" to a neighboring land plot, or, where appropriate, to another land plot, for purposes of ingress/egress by foot or vehicle over the neighboring parcel, where access is impossible, "extremely difficult, or demands unreasonable expense," (69.2.1) or for purposes of installing "necessary lines for electricity, communications, water supply, drainage . . . and other needs of a private owner or land

⁸ See also discussion on Civil Code in Section 5.2 of this Assessment.

user, which may not be provided without establishing an easement on the neighboring or other land plot. (69.2.2).

"Private servitudes" are established by agreement between the owners of the plots, where the servient owner is compensated "for all losses relating to the servitude," (69.3, 69.5). "Public servitudes" are those that may be established on the basis of regulatory acts of local executive bodies and may be formed without requiring an agreement or by taking (with accompanying compensation) (69.4). Article 69.4 lists the types of public servitudes permissible under the law.

For an owner of a land plot that is subject to a servitude or easement to receive compensation, he/she must prove that the "easement leads to substantial difficulties in using the land plot." (69.7). Like in the US and other jurisdictions, if the public servitude renders the land plot impossible to use, the land owners shall have the right to petition a court for compensation by the state for "losses or for granting an equivalent land plot, with compensation for losses."

Termination of a servitude/easement (presumably private) can take place if the beneficiary (or owner of the dominant tenement) rejects it or does not use it for 3 years, or it expires per an agreement. (74.1). A public servitude may be terminated "if the public needs for which it was established are terminated, by the local executive authority issuing a resolution to abolish the easement." (74.2). Servitudes/easements could also be terminated by law or court decision. (74.3, 74.4)

Pledges/Mortgages

If an individual owns a house located on state-owned land, he/she may pledge the house, along with the usage rights to the land, and the lender can file a lien against the building and the land use rights (39.4). Otherwise, state-owned land - presumably vacant or that without a private structure on it -- may not be pledged for collateral and shall not have credit liens filed against it. (39, 63)

Article 76 provides that land plots in private ownership or use may be pledged for collateral. Physical persons and non-governmental legal entities may pledge their land for collateral, if they own or have "chargeable temporary long-term use rights" to the land (79.1) In relevant part, Article 78.1 generally provides that where a house is mortgaged for collateral, the land associated with that house is also deemed to be encumbered by that mortgage, with the value of the land use or ownership right incorporated into the overall real estate value. Where an owner of a unit within a multi-residential structure pledges the unit for collateral, both the unit itself and the proportionate ownership share of the common elements are deemed encumbered by the mortgage (78.2). Unit owners need not obtain approval from other unit owners (i.e. co-owners of the common elements) in order to pledge their unit, along with their ownership share of the common elements (79.3). Owners

of structures located on state-owned land may pledge the house and the permanent land use rights as collateral, so long as the land associated with the structure services it (78.3, 39.2)

To secure a loan with a mortgage, according to Article 79.5, the prospective borrower submits to the lender the following:

1. Document certifying his/her right to a land plot (act certifying private ownership right, act certifying chargeable temporary land use right (leasehold), or act certifying permanent land use right (state-owned land))
2. Certificate on registration of land plot and real estate rights
3. Written consent of co-owners
4. Akt certifying cadastre value of a land plot or land use right from the relevant territorial office of the land committee (79.6)
5. Akt certifying estimated value of the property being pledged (appraisal). The Land Code does not specify who may perform the appraisal. The centers for real estate registration have their own appraisers, in addition to the numerous private appraisers. It appears that prospective borrower has a choice.
6. A parcel plan plotting the boundaries of the land being pledged, as prepared and issued by the territorial office of the land committee (79.6). A copy of this document must be attached to the mortgage agreement (79.7). It appears that the borrower may obtain this plan only from the land committees and does not have the option of obtaining such a plan from a private surveyor.
7. List of third party rights to the land and real estate known by the borrower at the time of concluding a mortgage agreement.

The mortgage document shall be prepared in two copies, one for the borrower, one for the lender (79.7). The mortgage agreement may not contain any clause the provides the lender may automatically take ownership or usage rights to the land plot, as well as fruits associated therewith, or restrict the land owners/user's rights to the parcel, presumably, in the event of default. (79.8). A mortgage lien arises when the mortgage agreement and mortgage certificate, if lender opts to require one from the borrower, are registered at the appropriate center for real estate registration. (79.11, 80) As better elaborated by the mortgage law (discussed below), the lender may demand that the borrower issue to the lender a mortgage certificate, in one copy. (79.9).

Termination of Ownership and Other Rights to Land

Chapter 9 addresses the various ways ownership and other rights to land may be terminated, including alienation, government "reservation" (eminent domain), expiry of the lease or use period, and other means not so relevant to this assessment. (81). Article 83 provides that a creditor could file "a claim against a land plot or land use right" to terminate the ownership or use right, have the parcel seized and transferred. It is not clear whether ownership would be transferred to the creditor directly or to another entity. However the court has discretionary authority to postpone the foreclosure sale for up to one year's period of time if "sufficient grounds exist (natural calamity and other emergency situation)" or the subject land parcel is agricultural. (83).

Article 84 provides for eminent domain, referred to as "reservation". The state may reserve the land plot to satisfy "state needs." (84.1, 89). Article 82.2 specifies that reservation involves the state's purchasing a land plot to satisfy one or more of the state needs specified in the Article. For those parcels that were granted into "temporary land use," where the land user did not purchase the rights from the state, the state can reserve the land without purchasing the land use rights, but the state must compensate the land user for losses incurred as a result of the reservation "in full amount." (64.4, 84.4, 165). For the state to take those land plots where the owners or users purchased the rights, the relevant governmental authority must provide the owner or user an advanced notice of one year prior to its taking, unless otherwise consented to by the owner or user. (85.2) A prerequisite here is that the owner or user "purchased" the land; it is unclear whether they had to have purchased the parcel from the state in order to be entitled to one year's notice. Moreover, since the vast majority of housing plots were granted free of charge, this clause could be interpreted to mean the state is not obligated to abide by this notice requirement in the event of reservation of these plots.

The price the state pays is set in a sales agreement with the owner or land user (87.1), based on the market value of the land plot and real estate located on it and the amount of the losses the owner will incur as a result of the reservations, as well as losses in connection with any premature termination of obligations to third parties. (87.2, 166.2). If the owner or user agrees, a substitute land plot may be granted to him (87.3). If the owner or user and the state body are unable to reach an agreement, the relevant state authority interested in acquiring the parcel may petition the court for forcible sale of the parcel. The petition to the court may be filed only after the one-year notice period has expired and not more than two years after the notice was first issued. (88). Further the landowner or user may appeal the reservation to a "superior authority" or to a court. (89)

Where the landowner uses the housing plot in a manner that is not in accordance with its designated purposes for a one-year period following written notice by the state authority, the state may reserve the land parcel (92), through a court procedure commencing with a petition by the local land committee (94.1). In this case, the state authority must provide the landowner or user one year "to take appropriate measures for the utilization of the land plot in accordance with its designated purpose." (94.2). If the landowner fails "to take appropriate measures" to adjust the utilization of the land plot in accordance with its

designated purpose, the reservation process described above will commence. (94.2). However, prior to taking any form of legal action for reservation, the local land committee is obliged to consider any applications by the land user or owner for altering the plot's "designated purpose." (94.3). In these cases where the homeowner is regarded as not using the housing plot in accordance with its designated purpose, the plot shall be sold at a public auction, with the proceeds, less the costs associated with the reservation, to be paid to the former owner or user. (94.4)

Article 95 provides for confiscation of land, in the form of a sanction for the commission of a crime or "other violation." The state is prohibited from confiscating from convicts those housing plots that are in private ownership or common ownership. (95)

Land Cadastre

All land plots situated in the Republic of Kazakhstan "shall be subject to state cadastre registration." (emphasis added) (152.8) The state land cadastre serves as a governmental information database on land plots located on the territory of Kazakhstan. In addition to technical information on the parcel, such as boundary measurements, use, size, location, soil fertility, and so on, according to Article 152, "information on the holders of land plots shall be entered into the state land cadastre." The state land cadastre is supposed to be unique, covering the entire area of Kazakhstan and is to be maintained by specialized republican state-owned enterprises. (152.3) Information in the state land cadastre is recognized as state information. (152.4) and is meant to serve as the official information for the legal cadastre.

In each territory, the state land committee shall maintain cadastre files for each land plot, accounting for quantity and quality of lands, land user and owner information, assigning a cadastre value for each land plot, forming an maintaining and automated land information system, preparing and maintaining cadastre maps, including digital maps, and, among other functions, "preparing *title documents* concerning land plots." (emphasis added) (153).

Each land cadastre shall contain land cadastre files, a land cadastre book, an integrated state register of land, and land cadastre maps. (156.1). Article 158 requires that the documentation shall be in paper and electronic format, and where a discrepancy exists between the two, the paper format prevails. (158.2) The land cadastre is to be maintained by state authorities and state-owned enterprises (158.3), and information in the state land cadastre shall be public and provided to interested persons for a charge. (158.6)

Other Provisions Overlapping With the Civil Code

The Land Code contains multiple articles that address inheritance of land (40), marital property (60), presumed ownership of subsurface mineral rights by the state, which it can grant to private parties, (42), and other provisions found in the Civil Code and discussed

above in greater detail. Article 63 provides that privately owned land plots, and those under permanent and long-term use rights, shall be counted among an individual's property in the event of a bankruptcy claim. (63.1).

Issues and Discussion

1. Although the current version of the Land Code represents a more progressive law in terms of ownership of housing and house plots, it is unclear, however, why Kazakhstan even needs a separate Land Code, when most of the issues regarding immovable and movable property could and should be covered by the Civil Code, while other issues the Land Code addresses, such as ecology or soil conservation, would be better covered in specialized legislation. Indeed, many relevant provisions of the Land Code are repetitive of those found in the Civil Code.
2. Regarding condominiums, a condominium law is badly need to permit unit owners to set up a structure for maintaining common elements, making decisions on improvements and collect fees from members. Without a condominium law, unanimous consent is required from all unit owners for certain expenditures and improvements, making governance, maintenance, payment collection and enforcement very difficult, usually contributing to decay of common elements.
3. One major practical impediment in the Land Code is the general confusion over whether a GosAkt on land ownership is required in secondary transactions among private parties. Some legal experts argue that purchasers of private plots in secondary transactions are not required to obtain new GosAkt; however, land committees and some notaries and registry centers require the purchasers of private houses to obtain new GosAkt. Moreover, purchasers feel the need to obtain the GosAkt with their names mentioned as owners on the certificate. In any case, this is a wasteful, duplicative step, as all certificates should be issued by the registry centers. Presently, owners obtain two different ownership certificates regarding their land rights, one from the registry center and the other from the land committee.
4. As with the Civil Code, the Land Code does not provide sufficient guidance and definition as to what the local authorities could determine to be "inadequate" or misuse of the parcel as justification for taking it from the owner. Similarly, Article 95, as with the Civil Code provides for confiscation of land for the commission of a crime or "other violation." Leaving such terms undefined or subject to broad interpretation typically leads to arbitrariness and could corrupt the property regime. Furthermore, with regard to eminent domain, the contents of the notice should be better specified, as to what the landowner must do to avoid "reservation."
5. The provisions on the land cadastre resemble strongly those that pertain to registration, which leads to confusion in the marketplace, as citizens often regard both the land committees and centers for real estate registration each as registries. The Land Code should

be amended to unequivocally recognize the Centers for Real Estate Registration as the unique and superior source of information pertaining to land rights and unique legal registry. The land committees' land cadastre should be little more than graphical and other land information needed to support legal rights to that land, while the registry centers should contain the legal cadastre. To minimize confusion and drastically reduce transactions costs, it makes greater sense to link the databases of the land committees with those of the registry centers, or, perhaps to unify both land and legal cadastres into one cadastre.

Recommendations

1. The Land Code should ultimately be eliminated with its provisions on property relations subsumed in the Civil Code and provisions not concerning property in other specialized legislation. It is generally a holdover from the soviet era when land was primarily state owned and required special regulation by the state. Moreover, a great deal of redundancy and overlap already exists between the Civil and Land Codes.
2. GosAkts should only be necessary when the akim first grants the land to the private homeowner. They should not be required in any secondary transactions with land and real estate. Land committees should be precluded from issuing any certificates or GosAkts in secondary transactions. Such a measure would very likely accelerate the average sales transaction by as many as 30 days and remove any confusion as to what institution is the correct legal registry.
3. As with the Civil Code, the Land Code's overly broad justifications for confiscation or taking should be either very specifically defined or eliminated.
5. The land cadastre should ultimately be merged with the legal cadastre in a unique and unified cadastre, preferably under the administration of the Centers for Real Estate Registration. The status quo creates an impression of two registries, leading to confusion, duplication, and corruption of the real estate market. The Land Code should be amended to clarify that all legal registration and titling activities are to be conducted solely by the registry centers to make it more consistent with the Law on State Registration.

6.4. LAW ON STATE REGISTRATION OF RIGHTS TO REAL ESTATE AND TRANSACTIONS THEREWITH (as of August 9, 2002)

Relevant Description

General Provisions

The Ministry of Justice, along with state-owned enterprises subordinated to it, is responsible for carrying out registration of rights in real estate. (5). The Centers for Real Estate Registration are state-owned enterprises, and they, as Article 7 provides, maintain the legal cadastre as part of the Ministry of Justice's "local registering bodies."

In relevant part, ownership, usage rights with terms longer than one year, mortgages, and "any other rights in real estate" are "subject to" registration. (2.1). These and "any other rights to real estate" emerge upon the moment of their registration. (3.1, 22.1). In essence, if the right is not registered it is regarded as legally non-existent. However, confusingly, Articles 3.2 and 22.1 provide that "any other rights in real estate" (i.e. those not listed in Article 2.1) need *not* be registered and can arise at the moment the transaction is executed or of "any other legal fact."

Voluntary Registration

Neither this law nor any other requires parties to have their rights registered. Registration is generally voluntary in Kazakhstan. However, registered rights shall have priority over those that are not registered. Further, where one party to a transaction that is "in proper form" evades its registration, the court may order its registration if one of the parties petitions the court for registration. (22.4) Court decisions impacting rights to real estate shall be registered; the registering body has no discretionary authority in this case.(27)

Identification Numbers

Article 7 calls for a unique and uniform parcel-based system of registration throughout the Republic of Kazakhstan (7.1, 7.3) , with registrations taking place on a sporadic (individual) basis, rather than through a systematic, mass registration process (7.2). All registry entries concerning rights to real estate shall be referenced to the land parcel via a unique cadastral number assigned to that parcel by the state land committee (7.4). For houses and other structures located on land to which the rights are not registered but are "confirmed by appropriate documents," the registrar must process the registration of ownership or other rights to that house as if it were located on a registered land plot. The unregistered land plot, in such a case, shall be issued a "notional number," (23), instead of a unique cadastral number. A notional number appears to be one that is not referenced to the land cadastre or backed up by the land cadastre.

The law requires each apartment to have its own registration number and registration file. (24.1). The legal cadastre shall contain a list of the unit owners. If a sale occurs, the previous owner's name is stricken and the new name is added to the list. (24.3)

Role of GosAks in Registration

For purposes of privatizing a housing plot, the homeowner is required to submit an application to the relevant Akimat, which issues a resolution rejecting or accepting the application. If the Akimat accepts the application, it grants the land to the homeowner. The new ownership right arising out of this privatization is then certified by the local land

committee on a GosAkt. According to our reading of the relevant laws, the GosAkt is required only for this initial transfer, which is for the privatization of the land plot, and probably not for any subsequent private transactions encompassing the privatized housing plot. In practice, some centers for real estate registration require the applicant to procure and submit to the Center an updated GosAkt evidencing his land ownership, which together with the documents related to the house, is registered in the legal cadastre. Further, we heard in various regions that citizens often prefer to update the GosAkt with their name appearing as the new owners of the parcel. According to some registrars, this is more psychological and cultural, as citizens feel more certain when the land committee records are updated with their names appearing as the owners of the parcels, rather than having the name of the previous owner remain in the land committee records. Nonetheless, the information of legal force is that in the Center for Real Estate Registration.

Registration Fees

All registration fees shall be paid into the state budget, (5-1, Tax Code, Chap. 11, Art. 61), not into the budget of the registry center. Fees for information services, appraisals, property inspections/inventorizations, however, are a revenue source exclusively for the registry center providing the services (6). Thus, where a party seeks a *vypiska* or *spravka* from the registry, the registry provides these information items for a fee payable directly to the registry center. Similarly, fees to the registry centers for updating the “technical passport,” requiring an inventorization of the structure and premises, as well as appraisals, all are payable into the relevant registry center’s budgets.

Contents of Legal and Land Cadastres

The Legal Cadastre shall consist of the following:

1. Land cadastre map (survey, plan)
2. Registration book -- consisting of sheets on each land parcel, each sheet containing three sections: (i) measurement data on the land plot; (ii) registered rights to the land parcel; (iii) registered encumbrances with a subsection on pledges. (10)
3. Registration files -- physical files kept for each land plot, containing copies of documents referenced by the registration sheet. (11.1). Only one registration file shall be opened for a given land plot (with real estate located thereon), which is identified by its cadastre number.

In comparison, according to Article 156 of the Land Code, the state land cadastre, as maintained by the state land committees, shall consist of the following:

1. land cadastre maps
2. Land cadastre book
3. Integrated state register of land

4. land cadastre files

There is some necessary overlap, particularly in the area of land cadastre maps, requiring information sharing and coordination of legal with the technical data. The territorial offices of the state land committees, in maintaining the land cadastre, are required to provide land cadastre maps (surveys, parcel plans) to the centers for real estate registration. (9.1) Article 9.2 provides further that land cadastre information on a given land plot "may be appended with topographic surveys to be stored in the registration files."

In practice, the centers for real estate registration contain almost solely textual information, and do not have access to digital maps or any other graphical data, which is supposed to be maintained by the land committees or GosNPTsZem.

Registration Procedures

In addition to submitting personal identification and documents confirming authority to enter into the transaction, (13.2), to register a right, an applicant generally must submit to the relevant Center for Real Estate registration the following documents:

1. Application for registration. In sales or mortgage transactions, either party could submit the application (13.1)
2. Documents confirming the right to real estate (13.2.2). Documents must be submitted in duplicate, one of which is either the original or a notarized copy. The registry returns the original or notarized copy to the applicant after it is registered (15.2), with it certification displayed on the document (if registered) (17)
3. Evidence of payment to the state budget the amount of the registration fee (13.2.3)

(See also Appendix E for a chart describing the main steps, with corresponding fees, in four typical transaction scenarios. The relevant normative acts are also cited for each step.)

When selling a common ownership interest in real estate, the application must be signed by all the common owners, and each shall submit the documents confirming their ownership and identification. (13.3). For purposes of urban housing, this rule applies to privatized apartments and houses, all of which were presumably transferred into the joint common ownership of the family members. As an exception to this rule, the mortgage law and Civil Code do not obligate an apartment owner to obtain written consent of all other unit owners if he/she wishes to mortgage his/her specific apartment, to which is attached his ownership share of the common elements and land.

Registrars must register the rights within five working days from the moment the documents were submitted for registration (14.1). Registrars may refuse to accept documents only if they are "improper." (13.5). Improper documents are those that contain erasures, additions, words crossed out and "other unsolicited amendments as well as documents executed in pencil." (15.1). Registrars may also deny registration if the applicant was "incapable," that is, not of legal age or mental capacity. (19.1.2) If the

registrar rejects an application, the registrar must send the applicant a letter stating the reason for denial or suspension, place a copy of that letter in the registration file for that property, and make an entry indicating the denial or suspension in the legal cadastre.

Upon receiving documents for registration, the registering body shall register the date, hour and minute of the receipt of the documents (16.1), and give the applicant a slip of paper evidencing such. (16.2) Article 14.2 specifies that where several applications for registration are submitted for the same property, the right associated with the earliest application shall be registered. (14.2).

Lis Pendens

If a party challenges an applicant's right to register, the registrar may suspend the registration for up to ten days. (18). However, if the complaining party submits proof that a lawsuit is pending regarding the property. (18). In such a *lis pendens* scenario, the registration must be suspended until the court decides on the case. Where an application is suspended or denied, the registrar must send the applicant a letter stating the reason for denial or suspension, place a copy of that letter in the registration file for that parcel, and make an entry indicating the denial or "lis pendens" suspension in the legal cadastre (19.2)

Public Accessibility to Legal Cadastre

Information in the legal cadastre is deemed public (21.1) and must be presented by the registering body for a fee to *any* person. (21.2).

Role of Notaries

The Law makes notarization optional by placing many of the notarial functions in the registry centers. Article 22.2 provides that if a transaction is not certified by a notary, the center for real estate registration must check the authenticity of the signatures, capacity, and will of the parties. Moreover, the parties to a transaction have the option to have their transaction closed by legal experts at the Non-Notarial Department in the relevant registry centers, bypassing notaries altogether.

Errors and Omissions by Registrars

Where a party incurs losses due to violations in registration procedure or information issuance, the registering body shall compensate for the losses. (30). However, as with notaries, neither this Law nor any other provides for a concrete fund or reserve to support claims against registrars. Also, the Law does not provide for an arbitration panel, or a review panel in the event a party disputes the registration, including boundary disputes. All such disputes are to be handled only in court. (29)

Issues and Discussion:

1. The Edict/Law on Registration is sufficiently straightforward, particularly with registering ownership rights arising out of transactions with multi-residential units.
2. Articles 3.2, 22.1 and 2.1 appear to be inconsistent to the extent that Article 2.1 provides that "any other rights in real estate" are subject to registration, but Article 3.1 states that "any other rights in real estate" may emerge even though not registered. Nevertheless, we believe the overall effect here is that certain short-term transactions need not be registered, such as usage rights or leases with terms of less than one year.
3. As addressed above in our discussion on the Land Code, the land cadastre should be merged with the legal cadastre, under the control of the centers for real estate registration. There is much waste, duplication of efforts, duplicate parcel files and archives, most of which could and should be merged into one unified system.
4. Article 9.2 is unclear with respect to whether an applicant may be compelled to procure a field survey (at the applicant's expense) as a prerequisite to registering legal rights to a parcel; it is also unclear as to what authority may perform the survey. Does this mean that the center for real estate registration or the state land committee can require a new survey to update their information? If so, at whose expense? Such a provision could be interpreted to mean that the centers for real estate registration can order a survey of the parcel as a prerequisite to registration. This can be duplicative, as the same authority rests with the land committees. Of greater concern is that new surveys could be wasteful and unnecessary in most secondary transactions.
5. The Centers for Real Estate Registration perform too many functions outside the scope of registration. We found that registry centers perform inventorizations, appraisals, and registrations of collateral on movables, in addition to ordinary registration functions. Although site visits confirmed that real estate registration continues on a remarkably smooth course, the concern is that when the market intensifies, and the volume of transactions increases drastically, these other functions may distract the centers and serve to delay registration. These functions should be removed from the registry centers and transferred to a competitive private sector environment.
6. Inventorization itself should no longer be required as a prerequisite to transferring ownership. Virtually all houses and apartment units registered at the centers for registration already have a "technical passport," which contains a technical description of the premises, an inspection report, exterior and interior plans, and other data on the construction. To require an elaborate inventorization process for each and every transaction is wholly unnecessary and wasteful. Existing technical passports should suffice. If there is a problem with an unauthorized alteration of the structure or parcel, this should be a matter for the local zoning or some other enforcement body to address and resolve. This should not be a registry function.

Moreover, although the Centers reported to us that inventorization takes from five to ten working days, real estate practitioners and private individuals have reported that one ordinarily waits up to three months for the center to complete an inventorization of the structure and premises. Since there are no regulatory or legal requirements that set a deadline by when the center must complete the inventorization, the ownership transfer often is delayed for months. In short, inventorization should no longer be a prerequisite for registration, whether performed by the centers or any one else.

7. Since registry centers currently depend on revenues from these ancillary functions, it would also be important to allow the registries to retain in their budgets all fees for registration, information sheets (*spravki*), title abstracts (*vypiski*), non-notarial registrations, and other activities more directly related to the registry functions. Presently, registry centers are surviving financially from revenues generated primarily by inventorizations, appraisals, and some other functions not related to registration.

Recommendations

1. Articles 3.2, 22.1 and 2.1 should be clarified to become more consistent as to what transactions are not subject to registration.
2. Most of the functions of the land cadastre should be merged with the legal cadastre, under the control of the centers for real estate registration.
3. The Law should be made clearer that a field survey is NOT required in secondary transactions, unless the parties otherwise agree.
4. Functions outside the scope of legal registration should be removed from the Centers for Real Estate Registration and transferred to the private sector.
5. Inventorization itself should be eliminated as a prerequisite to the registration of each transaction. Even mere updating of the technical passport should no longer be pre-required, as it also results in excessive costs and delays and is wholly unnecessary in secondary transactions, unless the parties agree otherwise.
6. Registry fees, as well as fees for certain information services, such as those for issuance of *spravki* and *vypiski*, should be set at reasonable rates to permit the centers to be financially self sufficient, while encouraging citizens to continue to register their rights and procure information.

6.5. LAW ON MORTGAGING REAL ESTATE (as of June 3, 2003)

Relevant Description

General Provisions

The Law On Mortgaging Real Estate allows for banks and other lenders to secure loans with mortgage liens. (2, 3, 4, 5.1, 6.1). Of relevance here, the Law specifically provides for “mortgage housing loans” for purposes of constructing, repairing or purchasing a house. (1.5-2). Notarization is no longer mandatory and is at the discretion of the parties (5.3, 6.3).

A mortgage lien against a particular property arises only upon its registration at the relevant center for real estate registration (5.2, 6.2). The borrower-mortgagor is required to inform the lender-mortgagee of any known third party claims and rights to the mortgaged property, regardless of whether these claims or rights have been registered (10) In the event that the borrower-mortgagor violates this principle, then the lender-mortgagee may accelerate the debt satisfaction. (10)

Assigning Mortgages

Mortgage rights under a mortgage agreement may be assigned to a third party. (9). As in many jurisdictions, the mortgage law stipulates if the borrower were to sell the encumbered real estate, he must first obtain approval from the mortgagee-lender. Should the borrower sell or otherwise transfer the mortgaged real estate, without the secured lender’s approval, then the lender may have the transfer nullified or may accelerate the satisfaction of the debt. (8.1). However, if the borrower issued a mortgage certificate, the pledged real estate may not be alienated. (8.2)

Mortgage Certificates and Transfers

The law clearly allows for the transferability of mortgages and mortgage rights, as described in mortgage certificates. The lender may obtain from the borrower a mortgage certificate that confirms the lender’s mortgage lien on the borrower’s property. (5.2, 6.2) A mortgage certificate is essentially a security that gives the holder a right to the loan proceeds and to an encumbrance on the pledged real estate (12.1). The certificate exists only in one copy (12.2, 12.4) and specifies the (i) names and addresses of the mortgagor-borrower and mortgagee-lender, (ii) the name of the borrower only if the mortgagor and borrower are not the same person, (iii) the date and place the mortgage agreement was executed, (iv) principal amount and any interest, (v) repayment date and dates and amounts any installments are due, (vi) the mortgagor’s rights to the real estate being pledged for collateral (vii) brief description and location of the encumbered real estate, (viii) signature of mortgagor-borrower, (ix) issue date of mortgage certificate. (13) Issuance of a mortgage certificate and its subsequent transfers shall be subject to registration at the center for real estate registration office where the property is located. (15)

Upon satisfaction of the obligation specified in the mortgage certificate, the mortgage certificate holder must transfer the mortgage certificate to the issuer of the certificate (i.e.

the mortgagor-borrower). (14.1, 14.2) If the certificate issuer has performed part of the principal obligation, he has a right to have a binding notation entered on the mortgage certificate indicating partial satisfaction. (14.2) He may exercise this right no more than once per year. Furthermore, if the mortgage certificate is transferred to a third party, the note of partial performance shall be regarded as the amount of the obligation. (14.2) If the mortgagor/issuer holds the mortgage certificate, then the Law presumes the obligation has been satisfied. (14.4, 19.1.2) Where a certificate owner is transferring a mortgage certificate via a transfer note, the certificate owner is not liable for the debt repayment under the mortgage agreement, so long as there is a notation of “without recourse” on the mortgage certificate prior to the registration of the certificate. (14.6)

Where a mortgage certificate has been issued, to transfer the mortgage right, a transfer note contained on the mortgage certificate must be signed, which specifies the name of the transferee. A transfer note must also be signed by the transferor, who could be either the original lender, whose name is indicated on the mortgage certificate, or by the owner of the mortgage certificate whose name is specified in the transfer note on the mortgage certificate. (16.1) The current owner of a mortgage certificate has all the rights of the originating lender-mortgagee. (16.2) Ownership of a mortgage certificate arises once the transfer note on the mortgage certificate is completed, signed, and the certificate handed over. (16.3). The ownership rights to a mortgage certificate are deemed invalid if it is proven that the certificate was stolen or the transfer notes on the mortgage certificate were made against the will of the transferor and the transferee knew or should have known such facts. (16.3) Notes on a mortgage certificate that prohibit its transfer to any other entities are regarded as invalid (16.4).

Finally, Article 18 permits the owner of a mortgage certificate to pledge it for collateral and addresses the rights of the parties to such a transaction.

Foreclosure

Chapter 4 contains provisions on judicial and non-judicial foreclosures. In the event a borrower defaults on his/her mortgage loan, the mortgage law permits the mortgagee-lender to foreclose upon the property to satisfy the debt obligation.

A judicial foreclosure involves a court ruling on the foreclosure and an order to sell the encumbered property through a public auction (21.1). The court may refuse the mortgagee's petition if the amount of the default is "extremely insignificant . . . and disproportionate with the value of the pledged property." (21.2). In its decision for foreclosure, the court must specify, among other items of information, all amounts that are due to the pledge holder, as secured by the mortgage, as well as unpaid interest and the initial selling price for the encumbered real estate. Unlike other ex-communist countries, the Kazakhstani mortgage law does not obligate banks to find alternative lodging for defaulting borrowers in the event of a foreclosure sale and eviction.

A non-judicial foreclosure involves an auction of the encumbered property by a trustee, (29) who is appointed by both parties to a mortgage agreement, or by the lender only, if so specified in the mortgage agreement. (24.1, 24.2). Prior to holding the foreclosure auction, the trustee prepares a notice of default, registers the notice at the registry where the mortgage agreement was registered and hands the notice to the defaulting borrower, or sends it via registered mail if physical delivery is not possible. (25.1.1, 26). If the defaulting borrower still fails to satisfy the debt obligation within thirty or more days after the date the notice of default was delivered to him/her, the trustee shall prepare a notice for the auctioning of the mortgaged property, (27), register it at the appropriate real estate registry, deliver this notice to the borrower and lender, and officially publicize an auction announcement (25.1.3, 28) After the passage of ten or more days following the publicized auction announcement, the trustee conducts the auction. (25.1.4, 29). The mortgagee-lender may participate in the auction and acquire the encumbered property without paying the purchase price (31.3)

As with judicial foreclosures, the mortgagor-borrower has the right to petition the court to delay the foreclosure for up to one year. (21.4,25,2). Similarly, the mortgagee and mortgagor, within three months following an auction, have the right to challenge the results of an auction in a court in the place where the real estate is located. (33) The defaulting borrower has the right to challenge the validity of the mortgagor's claim in court and the court must suspend any auctions, presumably, while passing on the borrower's petition; however, the Law does not specify the deadline by which the borrower has this right to challenge. (25.2)

The proceeds of the auction are to be paid out in the following order of priority:

- Expenses related to conducting the auction
- Principle obligation secured by the first mortgage
- Secondary mortgage positions
- Any other encumbrances of the real estate
- Remainder to be paid to the mortgagor. (36)

If the proceeds of the foreclosure auction are not sufficient to cover the total obligation, the mortgage is still terminated. (37.2).

Issues and Discussion: The Law is relatively straightforward and has been thoroughly implemented, per our field findings. Each registry center, including those in more remote rayons such as Sharbakty, has experience in registering mortgage loans against real estate. Most of the major banks have mortgage loan departments, mortgage companies have been formed, and a secondary mortgage market has emerged, per our observations. However, conversations with bankers, notaries and other real estate practitioners indicate that both courts and banks have very little experience with foreclosure sales and evictions.

Recommendations: None.

6.6. TAX CODE (as of June 12 2001)

Relevant Description

The Tax Code provides that taxation of land and real estate (60.7, 60.9), real estate registration fees (61.3), and payment for the use of state-owned land (62.1) are payable to the central budget. In the event a taxpayer is delinquent in his taxes payable, the tax authorities may secure the delinquent amount by "restricting disposal of property toward the tax debt of the tax payer." (45.3, 48.3)

The Tax Code bifurcates real estate taxation into two separate sections, one on land and the other on buildings. Land taxes are covered by Section 12, while taxation of houses and apartment units is regulated by Section 14. Housing land located in populated areas is subject to taxation (323.1.2, 323.2.2).

Tax on Land Plots

For purposes of taxation, land ownership is not a prerequisite; land taxes are assessed against land that is ownership, in permanent land use, and under "rights of non-repayable temporary land tenure." (323.5.1, 324.1) If documents that ordinarily certify usage or ownership rights are missing, the user of the land parcel will be regarded as the taxpayer if he "actually" possesses and uses the plot. (325.2). However, the Tax Code does not envision a pure *ad valorem* property tax for land associated with houses and bases the tax rate on a fixed rate per square meter that varies by land size and geographic location of the parcel. In Astana, Almaty and "cities of provincial designation," the annual land tax rate is 0.20 Tenge per square meter for land areas of 1000 square meters or less, and 6.00 Tenge per each square meter for land areas in excess of 1000 square meters. For those lands in excess of 1000 square meters, the local representative bodies have discretionary authority to reduce the rate from 6.00 to 0.20 Tenge. In other populated areas, except Almaty and Astana, housing plots are taxed annually at 0.20 Tenge per square meter for those plots with sizes of 5,000 square meters or less (333.2). For housing plots with areas exceeding 5000 square meters, the land tax rate is 1.00 Tenge per square meter; and, local representative bodies are authorized to reduce the tax rate from 1.00 to 0.20 Tenge in the latter case. Taxes are due on or before October 1 of each year. (342.2) and must be paid at the representative body of the tax authority in the jurisdiction where the land plot is located (339.4).

Taxes on Houses (Structures)

Article 363 provides that, among other real properties, residential houses in ownership of physical persons are subject to property taxation. Unlike with land taxation, in taxing houses, the Tax Code requires that the house or unit be in ownership (and not "used for

entrepreneurial activities") and bases the tax rate on value (363, 365). The table in Article 365 lists values and rates associated with each value. For instance, where the value of a house or apartment unit is 4,000,001 Tenge, the homeowner is required to pay an annual property tax of 7,500 Tenge.

Registration Fees Payable Into Central Budget

Chapter 70 provides a framework for charging fees for real estate registration. The provisions are very general and allow for specialized legislation or decrees to specify the manner and amounts of the fees. Of importance here is that real estate registration fees are to be paid to the state budget, not the budgets of the centers for real estate registration. (61.3, 406.2)

Issues and Discussion:

1. For purposes of taxation, land ownership should be a prerequisite. By permitting the state to tax land users as if they own the land motivates the state to retain ownership of the land and not privatize it. As a matter of fairness and sound public policy, registered *ownership* should be a prerequisite to property taxation. If the state does not want to release its ownership, then it should not be entitled to tax revenues on the property it owns. However, in those cases where the homeowner has not bothered to register his/her rights to the land, the tax authorities should be permitted to obtain a GosAkt for the homeowner and register the ownership of his land and house, with or without the owner's consent. In rural areas, we noticed that many houses are located on land that would otherwise have been granted into ownership of the homeowners, but the homeowners have not yet bothered to undergo the process of obtaining a GosAkt. Such an amendment to the Tax Code would encourage (i) further privatization of state-owned land and (ii) increased ownership of housing plots in accordance with the Land Code; (iii) fair taxation policy based on land ownership.

2. The separation of land and buildings into separate units for taxation purposes should be eliminated. Upon resolving the land ownership issue as discussed immediately above, the Tax Code should recognize the house and housing plot as one taxable real estate unit and allow for its local branches to tax that unified real estate unit based on its value. The bifurcated form of taxation leads to confusion, especially where the land tax is based on size and the tax on the home is based on value.

3. It would make greater sense if an ad valorem property tax were established for all privately owned houses with their plots. A vibrant real estate market is emerging in Almaty and elsewhere in Kazakhstan, as is a viable mortgage market; thus, values are more determinable now for houses with their plots than before. Moreover licensed appraisers abound, rendering valuation of houses with land plots, attainable within reasonable accuracy for taxation purposes. However, the amount of the taxes should be reasonable, while affordable to the vast majority of homeowners in a particular jurisdiction.

4. The driving force behind the registry centers' operations should be real estate registration. By mandating that registration fees are to be paid to the state budget, not the budgets of the centers for real estate registration, this motivates the registry centers to generate revenues from multiple activities ordinarily outside the scope of registration. Many of these activities have morphed into needless technical and bureaucratic prerequisites to ownership registration. It is, thus, imperative that the Tax Code be amended to entitle the registry centers to revenues generated from registration fees. This may involve reducing or eliminating any government subsidies the registries are currently receiving, and permitting fees to be increased to reasonable levels. As can be seen on the charts on Annex D, the fees are remarkably low for registration. Emphasis should be enabling the registry centers to sustain themselves independently by charging reasonably high fees, but at levels that are affordable to the vast majority of the homeowners in a given location. One must exercise caution here, since in many countries, when the registration fees became excessive, the real estate transactions returned to the shadow economy.

Recommendation:

1. The Tax Code should be amended to establish ownership of land as a prerequisite to taxation, not only as an incentive for the state to privatize the state-owned land on which private buildings are located, but also to unify land and buildings into a unified real estate asset.
2. If the homeowner has failed to obtain a GosAkt and to register his/her property rights, the tax authority should be empowered unilaterally to obtain the GosAkt and register the ownership rights to the unregistered property, without the owner's consent and tax him/her accordingly.
3. The Tax Code should regard a house with its associated land as one taxable real estate unit.
4. A value-based property tax should be assessed on house and land as one real estate unit to ensure fairness for both the state and homeowners, and confirm state recognition of land as an indistinguishable asset associated with the house.
5. The Tax Code should be amended to permit the registry centers to retain all fees generated from registration.

6.7. LAW ON HOUSING RELATIONS (as of June 3, 2003)

Relevant Description

In addition to safety issues and provisions on availability of low-income housing, the Law on Housing Relations addresses the right to own and enjoy housing (1), so long as its usage is not to the detriment of others (4).

Privatization of Housing

Those citizens that did not own housing in Kazakhstan were permitted to purchase their housing, for a nominal sum, in accordance with the housing privatization program (69) “A citizen (together with a spouse and minor children) shall have the right, in a given populated area, to only one residence from the state housing stock, except in the cases in which each of the spouses had [received] such housing prior to their marriage.” (70) Articles 71 through 79 address the procedures, rules, requirements and steps for transferring housing to citizens. While land associated with houses and multi-residential structures was granted free of charge, housing was sold to citizens in accordance with “an agreement on the privatization of an apartment (house).” In most cases, citizens acquired the house with privatization coupons the state granted them in the early 1990s. Thus, in effect, the cost to citizens for acquiring a house or apartment was usually nominal.

Land Plot Associated with House

Article 19 establishes that the usage or ownership rights to land associated with a housing unit run with the unit. For instance, where one owns a house and has use rights to the land associated with that house, the use rights to the land shall be transferred along with the ownership of the house in the event of a sales transaction.

Family Members’ Rights in Housing

Article 12 lists the various means by which one may acquire ownership of a house or apartment unit, including private purchase and privatization. In the case of privatization, the Law repeats the Civil Code and Land Code in that “[p]rivatized housing shall be in the joint ownership of the tenant and all family members who permanently reside with him, including those who are temporarily absent,” unless the family members agree otherwise. (13.2, 13.3, 16.2.2). As discussed in Sections 5.2 and 5.3 of this Assessment, this form of joint family ownership is presumed only with privatized housing. Private housing that never was state-owned ordinarily is individually owned, while the children and spouse, are regarded as “family members of owners of the housing” -- not necessarily as co-owners. (21) However, family members permanently residing with the owners have legally protected usage rights. Article 22.2 further stipulates that the owners or any other persons cannot violate a family member’s right of use. If family relations are terminated, the family member may continue to use the house as a tenant, for an indefinite term, paying his/her share of utility and housing expenses. (22.1) While it is clear that the family member, in

this case, acquires the rights of a tenant, it is not clear, however, whether the homeowner acquires the rights of a landlord, with associated protections provided in Chapter 4.

Private Leases

Where a landlord leases a home in which he does not reside, according to a lease that does not specify an expiration period, the landlord may terminate the lease by giving the tenant written notice of termination three months prior to the date the tenant must vacate the premises; in this case, “the tenant and all persons who reside with him shall be subject to eviction without granting any other residential premises.” (24.5) Under the same circumstance, but where the landlord resides in the same home with the tenant, the landlord could expel the tenant by providing him/her one month’s notice; the landlord is not obligated to provide reasons (25.4) or any other premises (25.3).

Registration of a Multi-Residential Structure

A multi-residential structure, which is referred to as a “condominium item,” must be registered at the appropriate center for real estate registration. (31.1) The registration of the building and other commonly owned real property associated with the multi-residential complex must be carried out by the owners or their proxies. (32.2). If the structure and commonly owned real estate are not registered, transactions with the units within the multi-residential complex shall not be legally enforceable. (32.2) This provision is more applicable to private multi-residential complexes that were never state-owned, for when the multi-residential complexes were privatized, the state authorities carrying out the privatization were supposed to register the building. (32.3) Article 32.4 essentially reiterates Article 24 of the registration law that changes to and transactions with individual units are to be registered.

Associations of Unit Owners

Article 5 permits owners to form associations in any form that is not prohibited by law for the joint maintenance of the building, while Article 6 permits management of the housing stock to be carried out either directly by the owners, appointed or elected bodies, or trusted persons. Referring to a multi-residential structure as a “condominium item,” (42), Chapters 7 and 8 provide for alternative forms of associations. Terms, such as “cooperative” and “condominium” tend to deviate from their Western definitions, but are clear in terms of permitting unit owners to form an association for management and maintenance of the common elements and hire outside property managers. “Condominiums,” according to Articles 2 and 31, generally are privately owned housing units located within multi-residential structures, but each unit owner has a direct ownership share of the land and common elements associated with a multi-residential structure. (31.2) Neither this law, nor the Civil Code or Land Code permits the association actually to own the common elements. Article 31 basically reiterates the rules on shared ownership of common elements among unit owners, as spelled out in Article 209 of the Civil Code, Article 53 of the Land Code, and other provisions in these and other laws.

Termination of Ownership Rights to a Home

Articles 29.1 and 29.3 unequivocally establish, where an owner defaults on his debt obligations secured by a mortgage on his home and land plot, the owner may lose his ownership of the home and land; once he no longer has ownership to the home, he and all who reside with him “shall be subject to eviction” and are not entitled to “grants of other housing.”

Issues and Discussion

1. Regarding privatized housing, for the same reasons articulated in our discussions on the Civil and Land Codes, we believe that this law, along with others, should be amended to allow for the head of the household with his/her spouse to dispose of the jointly owned home without the consent of the other joint owners, but with proceeds payable to each joint owner in equal shares. As the volume of real estate transactions increases in cities such as Almaty and Astana, requiring the consent of each family member will become increasingly burdensome.

2. Article 22 should be modified to give the owner of a house full and exclusive rights. Allowing non-owning family members to stay on the premises against the owner’s will restricts the ownership right needlessly. With the exception of spouses and minor children, a homeowner should have the right to expel individuals.

3. The privatization process summarized above is more a historical summary, as most of the housing fund has already been privatized. Virtually all apartments in Almaty, Astana and other larger cities are privately owned today.

4. With regard to leases, the Law generally poses no burdensome obligations on landlords when evicting tenants. This is a remarkable step forward in property relations, especially when considering how some Eastern European countries continue to struggle with concept. Indeed, in Slovenia, for instance, landlords typically keep their premises vacant for years until the desirable tenant appears, for the landlord knows that certain laws restrict him from evicting a problematic tenant or one who is delinquent in his rent payments. Fortunately, this law shows that Kazakhstan allows property owners to lease their premises according to agreements, by which both tenant and landlord must abide.

5. The Law provides for owners of units within a multi-residential structure to form an association as they please; however, it falls short of providing for condominium associations in the Western sense. The Law does not explicitly allow condominium association to own common elements, to set fees and assessments to cover maintenance, repairs and renovations, and enforce their payment. In many countries, the condominium association may file a claim against a unit owner who fails to pay his assessments or fees, as charged by the condominium association. This could result in a judgment lien filed against the individuals unit and possible eviction through a court proceeding if the owner still fails to pay his assessment. It will be important to modify the Civil Code, Land Code,

and the Law on Housing Relations to allow unit owners the freedom to form condominium associations with broader enforcement powers.

6. As with the mortgage law and other legislation, the Law on Housing Relations is a great step forward in facilitating the development of a mortgage market, in that it permits foreclosure and eviction of defaulting borrowers, with their families, and no longer requires courts and mortgage lenders to provide alternative housing to defaulting borrowers.

Recommendations:

The Civil Code, Land Code, Law on Housing Relations should be amended to allow for condominium associations to be formed. This may also require a new condominium law, which is needed in Kazakhstan post haste.

ANNEX A

LAWS AND DECREES ANALYZED FOR THIS ASSESSMENT

- € Constitution of the Republic of Kazakhstan
- € The Civil Code, as most recently amended by Law No. 486-II on October 13 2003 (General Part) and by Law No. 483-II on June 10 2003 (Special Part)
- € Tax Code, as most recently amended by Law No. 394 on March 13, 2003
- € Code No. 442 The Land Code of the Republic of Kazakhstan (June 20 2003)
- € Presidential Edict No. 2727, Having the Force of Law, on the State Registration of the Rights to Real Estate and Transactions Therewith, as most recently amended by Law No. 348-II on October 29, 2003.
- € Presidential Edict No. 2723, Having the Force of Law, on Mortgaging Real Estate, as most recently amended by Law No. 427 on June 3 2003
- € Law No. 67 on Bankruptcy, as most recently amended by Law No. 427 on June 20 2003
- € Law on Housing Relations, as most recently amended by Law No. 427 of June 3, 2003.
- € Rules on the Provision of Information Services by the Centers for Real Estate Registration Services, as confirmed by Ministry of Justice Order (as of August 23, 2002)
- € Practical Guide for the Registration of Rights to Immovable Property, as approved by the Ministry of Justice (2000)
- € Decree No. 10 of the Plenum of the Supreme Court of the Republic of Kazakhstan on Some Issues with Applying the Legislation of the Right to Own a Dwelling (July 9, 1999)
- € Decree No. 454 of the Government of the Republic of Kazakhstan on the Approval of Rates for Fees for State Registration of Rights to Real Estate and Transactions Therewith (May 16, 2003)
- € Government Resolution No. 851 on the Form of Documents Certifying Rights to Land Parcels (August 22 2003)
- € Government Resolution No. 958 on the Rules for Maintaining State Land Cadastre in the Republic of Kazakhstan (September 20 2003)

ANNEX B

INDIVIDUALS CONSULTED IN CONDUCTING THIS ASSESSMENT

Almaty

- € Mr. Berik M. Abdrakhmanov, Notary, Notary Palace
- € Ms. Tamara M. Abdrakhmanova, Director, Otau-Service, a real estate services firm
- € Mr. Maurizio Guadagni, Rural Development Specialist, World Bank
- € Mr. Aidar B. Uteklov, Deputy Director General, Capital Real Estate
- € Mr. Abdul-Gaziz S. Mukashev, President, Chamber of Professional Appraisers of the Republic of Kazakhstan
- € Mr. Vladislav U. Tsoy, Underwriter, ATF Insurance Company
- € Ms. Dina Yu. Kendzheeva, Specialist for New Product Development, ATF Insurance Company
- € Mr. Zarrina A. Raeva, Head of Legal Department, ATF Insurance Company
- € Mr. Miruslan D. Beisenov, Head of Legal Department, BTA Mortgage (a wholly owned subsidiary of Bank Turan Alem)
- € Ms. Gulmira Kuanzhanova, Project Management Specialist, USAID
- € Dr. Kulyash M. Ilyassova, Kazakh Humanitarian Law University, SRI of Private Law (legal advisor and trainer of registrars)
- € Ms. Lyubov A. Burumbaeva, Head of Legal Department, KGKP Almatyzher, which serves as the legal branch of the Almaty City Land Committee
- € Mr. Nurali Shakhbaev, Registrar and Chief Specialist, Almaty City Center for Real Estate Registration
- € Ms. Alia Abdrakhmanova, Notary, Otau Service, operating in Kazkommertsbank.
- € Ms. Takhmina Suleimanova, Notary, Otau Service, Bank Turan Alem.
- € Mr. Michael Bookstaber, Senior Investment Officer IFC
- € Mr. Yevgeny V. Tskhai, Chairman of the Board, Almaty International Insurance Group

Astana

- € Mr. Zhanat Altaev, Director of GIS Automation Service, GosNPTsZem
- € Mr. Ryskaliy T. Esirkepov, Deputy Director General, GosNPTsZem
- € Mr. Zairolla D. Diusenbekov, Director General, GosNPTsZem
- € Mr. Usyen Koyishiev, Registrar and Head of Department of Registration, Astana Center for Real Estate Registration
- € Mr. Kanalbek F. Raimbekov, First Deputy, National Agency for Land Resource Management
- € Mr. Alexander V. Savchuk, Deputy Chairman, Astana-Finance
- € Ms. Maral Saltybaldynova, Head of Mortgage Lending Department, Astana-Finance

Kokshetau

- € Mr. Umirzhan Z. Ryskulbekov, Director, Akmola Oblast Center for Real Estate Registration
- € Ms. Galina G. Zadvornaya, Chief Engineer, Akmola Oblast Center for Real Estate Registration
- € Ms. Valentina S. Gerashenko, Head of Registration Department, Akmola Oblast Center for Real Estate Registration
- € Mr. Vasily V. Kuzmin, Head of Information Technologies Dept. Akmola Oblast Center for Real Estate Registration
- € Mr. Marat E. Bekimov, Chairman and Chief State Inspector for Land Conservation, Akmola Committee for Land Resource Management
- € Mr. Erbatir Akhmetov, Deputy Chairman, Akmola Oblast Committee for Land Resource Management
- € Mr. Kumurlyk T. Kuanyshbaev, Chief Engineer, Akmola Oblast Committee for Land Resource Management

Koktal Rayon

- € Ms. Alia K. Nugumanova, Director, Tselinograd Rayon Center for Real Estate Registration

Pavlodar

- € Mr. Khamzat A. Aliev, Deputy Director, Pavlodar Oblast Center for Real Estate Registration
- € Mr. Berik Beisembaev, Chief Specialist and Registrar, Pavlodar Oblast Center for Real Estate Registration
- € Mr. Erbolat Ismagulov, Deputy Chairman, Center Credit Bank
- € Mr. Madeniet K. Akhmetov, Chairman, Pavlodar Oblast Land Committee
- € Mr. Valery Filyaev, Deputy Chairman, Pavlodar Oblast Land Committee

Sharbakty Rayon

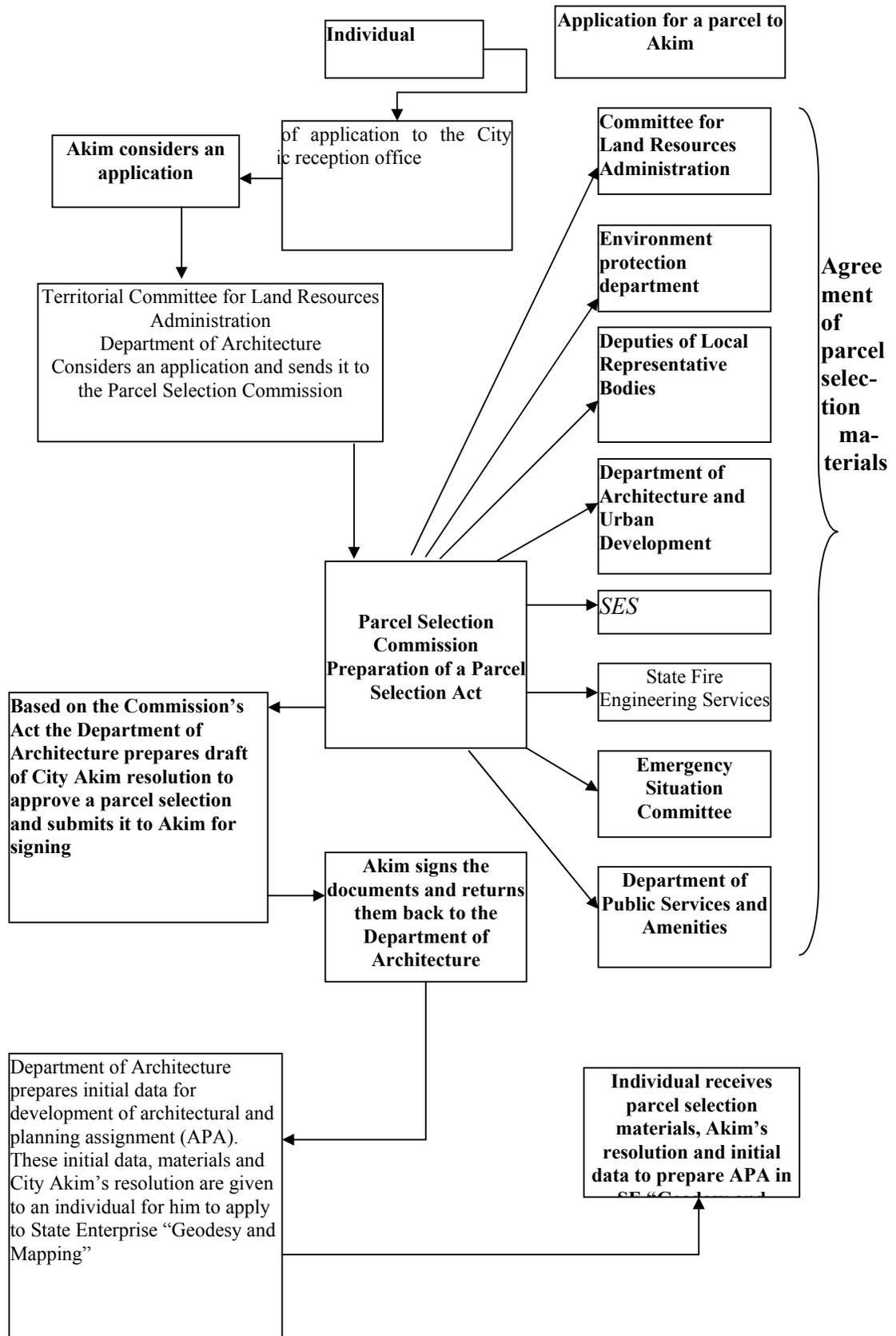
- € Mr. Bulat Kamshatov, Manager and Registrar, Sharbakty Rayon Center for Real Estate Registration
- € Mr. Tulegen M. Ordabaev, Chairman, Rayon Land Committee

Atyrau

- € Mr. Sabyrkhan I. Tumatov, Director, Atyrau Oblast Center for Real Estate Registration
- € Ms. Oksana V. Pavlenko, Deputy Director, Atyrau Oblast Center for Real Estate Registration
- € Ms. Maria M. Dyusekenova, Head of Legal Department, Atyrau Oblast Center for Real Estate
- € Ms. Rita M. Zhamalieva, Head of Information Technology Dept, Atyrau Oblast Center for
- € Real Estate

- € Ms. Galina K. Nelepa, Senior Specialist, Atyrau Oblast Committee for Land Resources
- € Mr. Ivan M. Muruev, Chief Engineer, GosNPTsZem

ANNEX C: PROCEDURE FOR STATE GRANT OF HOUSING PLOTS TO INDIVIDUALS



TRANSACTIONS CHARTS⁹

Each chart describes the steps, fees and normative acts requiring the step and setting the corresponding fee

1. Purchase of apartment unit in Almaty center with a size of 75 square meters

STEP	AMOUNT OF PAYMENT	WHO PAYS?	NORMATIVE ACT REQUIRING STEP	NORMATIVE ACT REQUIRING FEE
1. Obtaining from the State Real Estate Center: 1.1. Certificate of the technical characteristics of the property; 1.2. Appraiser's report; 1.3. Excerpt from the registration card of the Legal cadastre.	1,700 tenge	The seller	<i>Law "On Appraisal Activities"</i> Edict "On Governmental Registration of Rights to Real Estate" Resolution of the Government of the Republic of Kazakhstan of April 17, 2002, # 447 "Rules of Determination of the Value of Individuals' Objects of Taxation"	<i>Law "On Appraisal Activities"</i> ; Rules of Providing Information Services by the Real Estate Centers of the Registration Committee of the Ministry of Justice of the Republic of Kazakhstan
2. Notarization of the Sale Contract or the processing of the sale and purchase transaction via the State Real Estate Center	For notarization of the transaction documents in total 6,500 tenge: for notarization of the Sale Contract; notarized consent of the spouse for the sale of the real property/ notarized affirmation of the	For the notarization of the Sale Contract depending upon the arrangement between the parties; For a notarized consent of a spouse/ for notarized affirmation of a	The notarization of a Sale Contract this is not mandatory but by force of habit this is required by the banks or done by reason of the mentality of people (according to the people's opinion it is safer).	Edict "On Governmental Registration of Rights to Real Estate", Temporary Regulation "On the Procedure of Governmental Registration of Rights to Real Estate and Transactions Herewith", approved by the Resolution of

⁹ All charts were prepared by Ms. Mirgul Taimova, Senior Lawyer, The Pragma Corporation

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	<p>seller that he (she) is single; in case a privatized apartment is under sale – a notarized consent of each member of the household to the sale of the real property. In case of the registration of the right to real property, the pledged asset is registered with the State Real Estate Center in a notarized manner – this will cost 11,000 tenge. The processing of the transaction with the parallel registration of the rights via the State Real Estate Center (non-notarized) – 7,000 tenge, plus– it is required to present to the registrar a notarized consent</p>	<p>seller that he is single – the seller; in case a privatized apartment is sold – for notarized consent of each member of the household for the sale of the property – the seller; in case a privatized apartment is being sold – for notarized consent of each member of the household for the sale of the property – the seller.</p>		<p>the Government of February 20, 1997</p>
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	of a spouse for the sale of the property or a notarized affirmation of the seller that he is single – 1,000 tenge			
3. Registration of the right of ownership to the land parcel	For the apartment - 50% of a minimal calculation index (MCI – 872 tenge – approx. \$6); For a detached single-family house - 8 minimal calculation indices (MCI – 872 tenge – approx. \$6) – in cases, when documents on the transaction are not issued by the registrar of the State Real Estate Center.	A purchaser (or fifty-fifty with a seller depending upon the arrangement between the parties)	1. The Civil Code 2. Edict “On Governmental Registration of Rights to Real Estate and Transactions Herewith”	Resolution of the President of the Republic of Kazakhstan of May 16, 2003, Notes of Charges for Real Estate Registration and Transactions Herewith”

2. Purchase of apartment unit in Almaty of 75 square meters, utilizing purchase money mortgage

STEP	AMOUNT OF PAYMENT	WHO PAYS?	NORMATIVE ACT REQUIRING STEP	NORMATIVE ACT REQUIRING FEE
1. The bank fee for its services (borrower's underwriting, preparation of all the documents, seller's documents examination)	From no fee to 1% of the mortgage loan amount	Borrower	Bank's loan policy	Bank's loan policy
2. Receiving from the National State Enterprise "Real Estate Center" the following: 2.1. certificate on the housing technical characteristics; 2.2. appraisal report; 2.3. extracts from the registration list of the Legal cadastre.	1 700 tenge	Seller	<i>Decree "On the state registration of the real estate rights and transactions with the real estate"</i> Law "On the appraisal activity" Resolution # 447 of the Government of the Republic of Kazakhstan of April 17, 2002 "Rules of determination of the individuals taxation objects' cost"	Law "On the appraisal activity" Rules of provision of information services by the Real Estate Centers of the Registration Service Committee of the Ministry of Justice of the Republic of Kazakhstan
3. Insurance: 3.1. Life insurance 3.2. Property insurance 3.3. Bank financial risks insurance (should the initial fee be less than 30% of the mortgage loan amount, the	3.1. Life insurance - 3.2. Property insurance – 0,35% of the property cost. For instance, in KKB – 1.41 is multiplied by the mortgage loan amount	Borrower	Law "On the insurance activity", in accordance with the law the insurance is not required for the lending, banks in order to reduce the risks require the insurance, various banks require	The internal rules of the insurance company

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<p>difference between this fee and the 30% amount is the subject to insurance).</p>	<p>and the amount received is paid at once for the whole period. 3.3. 3,5% of the difference between the initial fee and the 30% amount</p>		<p>different types of insurance (BTA mortgage – all three types of insurance, KKK – the real estate insurance only).</p>	
<p>4. Notarial certification of the real estate purchase and sale contract or the transaction documents’ registration through the National State Enterprise “Real Estate Center”</p>	<p>Total fee for the notarial certification of the documents on a transaction is 6.500 tenge: for notarial certification of the purchase and sale contract; for notarial certification of the spousal agreement to sell the property/ notarially certified pledge of the seller that he/she is not married; in case the privatized apartment is being sold – the notarially certified agreement of each member of the family to sell the property. In case the real estate right registration, pledge registration in the Real Estate Center</p>	<p>Certification of the purchase and sale contract is paid depending on the agreement of the parties; the notarially certified spousal agreement/ the notarially certified pledge of the seller that he/she is not married is paid by the seller; In case the privatized apartment is being sold – the notarially certified agreement of each member of the family to sell the property is paid by the seller;</p>		<p>Notarial certification of the purchase and sale contract is not mandatory. Documents’ registration through the National State Enterprise “Real Estate Center” – Decree “On the state registration of the real estate rights”, Law “On the state enterprise”, Civil Code</p>

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	<p>is implemented through the notary, it costs 11.000 tenge. Registration of the documents on the transaction with the real estate rights registration through the Real Estate Center at the same time (without notarial certification) is 7.000 tenge, plus it is necessary to present to the registrar the notarially registered spousal agreement to sell the property or the notarially certified pledge of the seller that he/she is not married - 1.000 tenge...</p>			
<p>5. Registration of the real estate rights in the Real Estate Center</p>	<p>For the apartment – 50% of the Minimal Calculation Index (MCI is 872 tenge); For the dwelling house – 8 MCI. (MCI is 872 tenge for 2003)</p>	<p>Borrower</p>	<p>1. Civil Code 2. Decree “On the state registration of the real estate rights and transactions with the real estate”</p>	<p>Resolution # 454 of the Government of the Republic of Kazakhstan of May 16, 2003 “Fee rates for the state registration of the real estate rights and transactions with the real estate”</p>

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6 Registration of the real estate mortgage loan	50% of MCI (MCI is 872 tenge)	Borrower	1. Civil Code 2. Decree <i>“On the state registration of the real estate rights and transactions with the real estate”</i>	Resolution # 454 of the Government of the Republic of Kazakhstan of May 16, 2003 “Fee rates for the state registration of the real estate rights and transactions with the real estate”
7. Conversion into cash expenses	0,35% - 1,1 % of the mortgage loan amount	Borrower	Civil Code Law “On banks and banking activities”	Civil Code Law “On banks and banking activities”

3. Purchase of detached single-family house in Almaty with living space of 100 square meters and land plot size of 600 square meters

STEP	AMOUNT OF PAYMENT	WHO PAYS?	NORMATIVE ACT REQUIRING STEP	NORMATIVE ACT REQUIRING FEE
<p>1. Issuing the rights for the land parcel</p> <p>1.1. Primary transaction</p> <p>1.2. In case of the availability of the old governmental act for the land parcel, the issuance of a new governmental act in the person of the seller</p>	<p>2.1. In an accelerated manner (via intermediaries) – \$350; If there are additions or the governmental act was not available -\$100-150, additionally.</p> <p>2.2. In case there is a governmental act for the land parcel of an old format – the issuance of a new governmental act shall be considered as the issuance of a primary act – via intermediaries – \$350.</p>	Seller	<p>Land Code; Edict “On Governmental Registration of Rights to Real Estate and Transactions Herewith” Temporary Regulation “On the Procedure of Governmental Registration of Rights to Real Estate and Transactions Herewith”</p>	<p>Land Code; Internal documents of Land Committees</p>
<p>2. Issuance of a new technical passport</p>	<p>The site visit of a technical expert of the State Real Estate Center within a month – 800 tenge, expediently (via intermediaries) – \$50.</p>	Seller	<p>Edict “On Governmental Registration of Rights to Real Estate and Transactions Herewith” Temporary Regulation On the Procedure of Governmental Registration of Rights to Real Estate and</p>	<p>Edict “On Governmental Registration of Rights to Real Estate and Transactions Herewith”; Temporary Regulation “On the Procedure of Governmental Registration of Rights to Real Estate and Transactions Herewith”;</p>

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			Transactions Herewith”	
3. Appraisal	Appraisal of the State Real Estate Registration Center – 1, 800 tenge	Seller	Law “On Appraisal Activities” Resolution of the Government of the Republic of Kazakhstan of April 17, 2002, N 447 “Rules for Determining the Values of Individuals’ Objects of Taxation”	Law “On Appraisal Activities” Resolution of the Government of the Republic of Kazakhstan of April 17, 2002, N 447 “Rules for Determining the Values of Individuals’ Objects of Taxation”
4. Notarization of the Sale Contract or use of services of the State Real Estate Center for the processing of the transaction	Notarization of the document on the deal, totally, 6,800 – 7,000 tenge: for notarization of the Sale Contract; notarized consent of a spouse for the sale of real estate/notarized affirmation of the seller that he is single; in case if a privatized apartment is under sale – a notarized consent of each household member to the sale of the property. In case if the registration of the rights to real estate, the registration of the pledged asset in the State Real Estate Center is carried out in a notarized manner –it costs	For notarization of a Sale Contract - purchaser/seller (or fifty-fifty with a seller depending upon the arrangement between the parties); Notarized consent of a spouse for the sale of the property/notarized affirmation of the seller that he is single – the seller;	Civil Code Edict “On Governmental Registration of Rights to Real Estate”	Civil Code Edict “On Governmental Registration of Rights to Real Estate” Law “On Governmental Entity”

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	11,000 tenge. The issuance of the documents with the parallel registration of rights via the State Real Estate Center (non-notarized) – 7,000 tenge, plus– it is required to present to the registrar a notarized consent of a spouse for the sale of the property or a notarized affirmation of the seller, that he is single – 1,000 tenge.			
5. Registration of the right of ownership to a detached single-family house	A detached single-family house – 8 minimal calculation indices. (MCI – 872 tenge as of year 2003)		Edict “On Governmental Registration of Rights to Real Estate and Transactions Herewith”	The Resolution of the Government of the Republic of Kazakhstan of May 16, 2003, N 454 “Rates of Charges for the Governmental Registration of Rights to Real Estate and Transactions Herewith”
6. Re-issuance of the right of ownership for the land parcel in the purchaser’s name	Approximately \$50 – the official rate expeditiously – \$100 -\$200 (official prices – 2,000 tenge– 10,000 tenge – in case governmental acts are of an old format; unofficial price for the acceleration– \$250 - \$400 – depending upon the timeframe)	Purchaser	Land Code	Internal Rules of the Land Committee

4. Purchase of detached single-family residence in Almaty with living space of 100 square meters and land plot size of 600 square meters, utilizing a purchase-money mortgage.

STEP	AMOUNT OF PAYMENT	WHO PAYS?	NORMATIVE ACT REQUIRING STEP	NORMATIVE ACT REQUIRING FEE
1. The bank fee for its services (borrower's underwriting, preparation of all the documents for granting a credit, seller's documents examination)	From no fee to 1% of the mortgage loan amount	Borrower	Bank's loan policy	Bank's loan policy
2. Registration of rights to the land plot 2.1. Primary registration 2.2. Registration of the new governmental act for the seller in case of existence of the old act	2.1. In an accelerated manner (through the contact people), it costs \$350; If something is attached or there was no governmental act, it costs additional \$100-150. 2.2. If the governmental act is old-pattern, the registration of the new act is considered as the registration of the primary act and it costs through the contact people \$350.	Seller	Land Code; <i>Decree "On the state registration of the real estate rights and transactions with the real estate"</i> <i>Temporary resolution on the state registration of the real estate rights and transactions with the real estate</i>	Land Code; <i>Decree "On the state registration of the real estate rights and transactions with the real estate"</i> <i>Temporary resolution on the state registration of the real estate rights and transactions with the real estate</i>
3. Registration of the technical passport (the last technical passport receipt date)	Visits by the technician of the National State Enterprise "Real Estate Center" within a month cost 800 tenge,	Seller	<i>Decree "On the state registration of the real estate rights and transactions with the</i>	<i>Decree "On the state registration of the real estate rights and transactions with the real</i>

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must not exceed three months)	In an accelerated manner (through the contact people) it costs \$50.		<i>real estate” Temporary resolution on the state registration of the real estate rights and transactions with the real estate</i>	<i>estate” Temporary resolution on the state registration of the real estate rights and transactions with the real estate</i>
4. Appraisal	Appraisal by the National State Enterprise “Real Estate Center” costs 1 800 tenge.	Seller	Law “On the appraisal activity” Resolution # 447 of the Government of the Republic of Kazakhstan of April 17, 2002 “Rules of determination of the individuals taxation objects’ cost”	Law “On the appraisal activity” Resolution # 447 of the Government of the Republic of Kazakhstan of April 17, 2002 “Rules of determination of the individuals taxation objects’ cost”
5. Insurance: 5.1. Life insurance 5.2. Property insurance 5.3. Bank financial risks insurance (should the initial fee be less than 30% of the mortgage loan amount, the difference between this fee and the 30% amount is the subject to insurance).	3.1. Life insurance - 3.2. Property insurance – 0,35% of the property cost. For instance, in KKB – 1.41 is multiplied by the mortgage loan amount and the amount received is paid at once for the whole period. 3.3. 3,5% of the difference between the initial fee and the 30% amount	Borrower	Law “On the insurance activity” (the indicated types of insurance are not mandatory for the lending, banks in order to reduce the risks require the insurance, various banks require different types of insurance (BTA mortgage – all three types of insurance, KKK – the real estate insurance only).	The internal rules of the insurance company

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<p>6. Notarial certification of the real estate purchase and sale contract or the purchase and sale registration through the National State Enterprise “Real Estate Center”</p>	<p>Total fee for the notarial certification of the documents on a transaction is 6.500 – 7.000 tenge: for notarial certification of the purchase and sale contract; the spousal agreement to sell the property; in case the privatized apartment is being sold – the notarially certified agreement of each member of the family to sell the property; notarially certified pledge of the seller that he/she is not married. In case the real estate right registration, pledge registration in the Real Estate Center is implemented through the notary, it costs 11.000 tenge. Registration of the documents through the Real Estate Center (without notarial certification) costs 6.500 tenge, urgently – within 3 hours - 15.500 tenge.</p>	<p>Certification of the purchase and sale contract is paid depending on the agreement of the parties; The spousal agreement is paid by the seller; Notarially certified pledge of the seller that he/she is not married is paid by the seller.</p>	<p>Notarial certification of the purchase and sale contract is not mandatory, but banks require it by form of habit or it is implemented by virtue of the mentality (their opinion is that it is more reliable).</p>	<p>Civil Code Decree “On the state registration of the real estate rights” Law “On the state enterprise”</p>
<p>7. Registration of the real estate rights in the Real Estate Center</p>	<p>For the dwelling house – 8 MCI. (MCI is 872 tenge for 2003)</p>	<p>Borrower</p>	<p>1. Civil Code 2. Decree “On the state registration of the real estate rights and transactions with the real estate”</p>	<p>Resolution # 454 of the Government of the Republic of Kazakhstan of May 16, 2003 “Fee rates for the state registration of the real estate rights and transactions with the real estate”</p>

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8 Registration of the real estate mortgage	50% of MCI	Borrower	1. Civil Code 2. Decree “ <i>On the state registration of the real estate rights and transactions with the real estate</i> ”	Resolution # 454 of the Government of the Republic of Kazakhstan of May 16, 2003 “Fee rates for the state registration of the real estate rights and transactions with the real estate”
9. Conversion into cash expenses	0,35% of the mortgage loan amount	Borrower	Civil Code Law “On banks and banking activities”	Civil Code Law “On banks and banking activities”
10. Re-registration of the land plot right of ownership act to the name of the purchaser	About \$50 “*” in an accelerated manner – \$200, (official prices – from 2.000 to 10.000 tenge – if the acts are old-pattern; unofficial accelerated prices – from \$250 to \$400 – depending on the urgency)	Purchaser	Land Code	Internal rules of the Land Committee

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2 to. 6/2003

Trip Report

From A. Kopeikin and N. Rogozhina

Date: September 13 – 20, 2003

Location: Aktau and Atyrau, Kazakhstan Republic

Project: 10171-000-00

Main tasks of the trip were:

1. To consult banks on rules and procedures for extension and servicing of housing mortgages and policies and practices of housing construction and commercial real estate lending;
2. To advise banks on how to build up their relations with the Kazakhstan Mortgage Company (KMC);
3. To identify problems banks meet when they provide mortgage services or contact with KMC in order to prepare recommendations on improvement of current laws, regulations and correction of KMC performance policies and practices;
4. To provide advisory assistance to local administrations (akimats) with development of local programs of housing mortgage lending and housing finance.

During the trip a series of meetings was held.

In Aktau the team met with N. Ilmukhanbetov, subdivision head from the *OAO BTA-Hypothec* Company, Ye. Makhotina, credit department head from the *Tsentrcredit* Bank.

The local branch of the *Tsentrcredit* Bank organized a seminar for the credit department personnel. The seminar attendees included Alipova, deputy director of the branch, Ye. Makhotina, credit department head, A. Dosshieva, senior credit officer, junior credit officers and lawyers. The seminar agenda covered a wide scope of issues including housing mortgage extension and servicing rules and procedures, underwriting particularities, legal requirements to documentation of mortgage deals, registration of mortgage agreements, further development of the mortgage law, tasks and challenges of the secondary mortgage market, patterns of cooperation with KMC.

The staff of the *OAO BTA-Hypothec* Company was provided with consultations on difficulties in assessment of borrowers' creditworthiness, standard forms of mortgage agreements, prospects for the development of housing construction lending, variability of mortgage products, and loan servicing procedures.

The local administration (akimat) was supplied with the *Methodological Guide for the Development of Municipal Mortgage Lending Programs*.

In Atyrau the team met with M. Dosmukhamedov, head of the representation office of the *OAO BTA-Hypothec*, director of the local office of the *Astana-Finance* Company, and T. Ny, deputy head of the credit department of the *Tsentrcredit* Bank.

During the meetings the representatives of the local bank community were provided with consultations on mortgage extension and servicing rules and procedures. A particular emphasis was placed on legal aspects of mortgage lending, contracting and registration procedures. Additionally, the block of issues related to extension of mortgage loans to corporate and individual housing developers was discussed.

During the meetings in Aktau and Atyrau the local representatives were supplied with regulatory manuals describing mortgage extension, servicing and underwriting procedures.

CREDIT BUREAU ATTACHMENTS

Среди других стран СНГ Республика Казахстан может уже в ближайшее время создать частное кредитное бюро, чья организация и деятельность будут основаны на передовой мировой практике. Так считает старший советник корпорации «Прагма» Хавьер М. ПИЕДРА, который отвечает за внедрение кредитного бюро в рамках программы ЮСАИД по развитию финансового сектора в Казахстане. Программа по развитию финансового сектора оказывает содействие Национальному банку Казахстана и частному сектору в укреплении казахстанских рынков капитала, ипотечного кредитования, страхования и системы частных пенсионных фондов. Идеи, выраженные в данной статье, являются субъективными и не отражают взглядов правительства США и Агентства США по международному развитию.

УСПЕХ СБАЛАНСИРОВАННОГО ПОДХОДА

Расширение доступа к кредитным ресурсам

Идея создания кредитных бюро в Казахстане пользуется широкой поддержкой частных банков, Ассоциации финансистов, сектора розничной торговли и малого и среднего бизнеса (МСБ). Все данные группы понимают, что кредитные бюро: а) напрямую способствуют экономическому развитию; б) увеличивают возможности потребителей в получении кредитов; в) улучшают систему управления рисками в банках; и г) ведут к диверсификации активов и появлению новых банковских продуктов. Кредитные бюро расширяют возможности среднего класса, обеспечивают более объективное отношение к населению при кредитовании, а также стимулируют развитие сектора малого и среднего бизнеса. Указанные цели точно соответствуют стратегическому видению Национального банка Казахстана по данному вопросу.

Ключевые министерства также одобряют данную инициативу благодаря упорной работе Национального банка Казахстана, который возглавляет ее при техническом содействии Американского агентства по международному развитию (ЮСАИД). Крупнейшие международные операторы кредитных бюро, такие как Experian (США и Великобритания), Vauxcorp Advantage (Австралия) и CRIF (Италия) также принимают в этом участие. Представители данных организаций, равно как и Visa International, посетили Казахстан в 2003 году по меньшей мере по одному разу. В качестве потенциального стратегического инвестора свое одобрение по этому вопросу выразила Международная финансовая корпорация. Дополнительное техническое

содействие, помимо содействия, уже оказываемого ЮСАИД, может быть предоставлено в ближайшие месяцы после того, как будет достигнуто соглашение между основными заинтересованными сторонами, представляющими частный сектор, правительство и парламент по некоторым ключевым законодательным вопросам.

В этом отношении ожидается, что Парламент к ноябрю 2003 года обсудит и примет новый Закон "О кредитном бюро и формировании кредитных историй в Республике Казахстан". Данный закон обеспечит законодательную базу для первой комплексной системы кредитного бюро на территории СНГ.

Этот закон настолько важен, что депутаты Парламента обратились с просьбой к Национальному банку Республики Казахстан, а также к крупнейшему международному оператору кредитного бюро и Европейской ассоциации поставщиков информации кредитным бюро (ACCIS), базирующейся в Германии, оказать консультационную поддержку в ходе парламентских дебатов осенью 2003 года. Закон является ключевым фактором, и все это знают. Президент Республики Казахстан также придает этому вопросу большое значение, назвав создание системы кредитного бюро в Казахстане одним из 10 приоритетов финансового сектора в течение последующих 6 месяцев.

Законопроект включает специфические положения, такие как: а) сбор как позитивных, так и негативных данных¹ (в отличие от Австралии, Гонконга, Сингапура и Кореи, где

¹ Негативные данные обозначают информацию о потребителе, связанную с кредитами, как, например, просроченные кредиты, списание безнадежных долгов или банкротство. Позитивные данные обозначают информацию, связанную с кредитами, как, например, количество кредитных продуктов, остатки на счетах, виды деятельности по каждому кредитному продукту и кредитные лимиты.

имеются лишь базы негативных данных, – ошибка, которую, возможно, эти страны хотят поправить); и б) обязательность предоставления данных финансовыми институтами лицензированному кредитному бюро. При наличии как позитивной, так и негативной информации банки способны принимать более обоснованные решения по выдаче кредитов, повышают целесообразность использования методологии качественной оценки с учетом рисков, улучшают эффективность кредитных линий и снижают уровень мошенничества.

Преимущества, с точки зрения потребителей, заключаются в том, что те из них, кто имеет надежную положительную кредитную историю, получают более высокие кредитные лимиты, что обеспечит еще более высокую покупательную способность в экономике.

Прописанная в законе обязательность предоставления данных будет основываться на уже существующей практике, в соответствии с которой Национальный банк Республики Казахстан требует от финансовых институтов предоставления ежемесячной отчетности. Отличие от существующей практики заключается в том, что лицензированное частное кредитное бюро будет иметь право получать данные согласно положению об обязательном предоставлении данных и, соответственно, начать с базы данных, которая «в силу обязательности предоставления данных не требует длительного приготовления». Это означает, что кредитное бюро после разрешения технических вопросов и загрузки идентификационных данных теоретически достигнет уровня безубыточности быстрее, чем при полностью добровольной системе.

Наиболее значительные споры в Парламенте возникнут, скорее всего, вокруг следующих вопросов: 1) роль и полномочия органа надзора, который предстоит выбрать; и 2) уровень, до которого Правительство считает необходимым защищать неприкосновенность частной жизни.

Общепризнанно, что любая система кредитного бюро должна отражать основные принципы, поддерживающие право на неприкосновенность частной жизни гражданина, то есть право на получение кредитного отчета в разумные сроки, по разумной цене и разумным способом; право на оспаривание данных и на своевременное внесение исправлений; право на получение информации о цели сбора данных; право на ограничение типа собираемых данных; право на ограничение раскрытия данных; право требования точности данных; и право знать, что существуют средства судебной защиты в случае несанкционированного использования данных. Закон о кредитном бюро в Казахстане должен содержать формулировки по защите данных прав потребителя.

Большинство законов об информации в мире требуют письменного согласия потребителя на раскрытие конфиденциальных данных третьей стороне – в Казахстане аналогичное законодательство уже существует. Это жесткое и ясное законодательство, которое фундаментально соответствует законодательству стран ЕС. С другой стороны, в Хорватии, Польше и Чешской Республике банковское законодательство разрешает банкам собирать и распространять данные внутри банковского сектора без получения согласия потребителя.

Вопрос, стоящий перед Казахстаном, равно как перед Ла-

тинской Америкой, Европой, Азией и Северной Америкой, – это найти соответствующее равновесие между неприкосновенностью частной жизни и обменом информацией. Данный вопрос сводится к следующему: а) насколько жесткое законодательство о неприкосновенности частной жизни требуется для того, чтобы защитить население от недобросовестных пользователей услуг; и б) какова цена такого законодательства для экономики и для граждан. Иными словами, существуют переменные издержки для потребителя в виде более высоких цен, процентных ставок и ограниченного доступа к кредитам в том случае, когда чрезмерные нормы права о неприкосновенности частной жизни (т.е. чрезмерное зарегулирование) препятствуют обмену идентификационными данными и кредитными историями.

Дебаты могут быть продолжительными. Континентальная Европа и страны англо-саксонских традиций имеют другое представление о том, что собой представляют «персональные данные», как они могут быть использованы и какова роль правительства в управлении потоками информации. Различия существенные, если праву абсолютной неприкосновенности частной жизни противопоставить право неограниченной свободы использования информационных потоков. Но ни один серьезный оператор кредитного бюро не станет придерживаться экстремальных позиций.

Очевидно, что регулятивные органы в странах ЕС и Восточной Европе поощряют обмен информацией до тех пор, пока это не нарушает основное право на неприкосновенность частной жизни потребителя. Принципами информационного обмена данными признано, что информационные потоки являются существенным условием стимулирования долгосрочного экономического роста или, иными словами, условием снижения неблагоприятных воздействий от экономического выбора, тенденций олигополии и рационализации кредитных ресурсов. Частично по данной причине парламент в Европе или где бы то ни было поощряет обмен информацией и не принимает законодательства, которое осуществляет «микроуправление» процессором обработки данных на операционном уровне. Предпочтительнее, чтобы законодательство отражало высокие принципы, как отмечено в Директиве по защите данных 1995 года Европейского Союза (95/46)². Законодательство стран Европейского Союза построено таким образом, что способствует устранению барьеров (главным образом устранению нормативных несоответствий в законодательствах государств – членов ЕС), препятствующих созданию единого внутреннего европейского рынка.

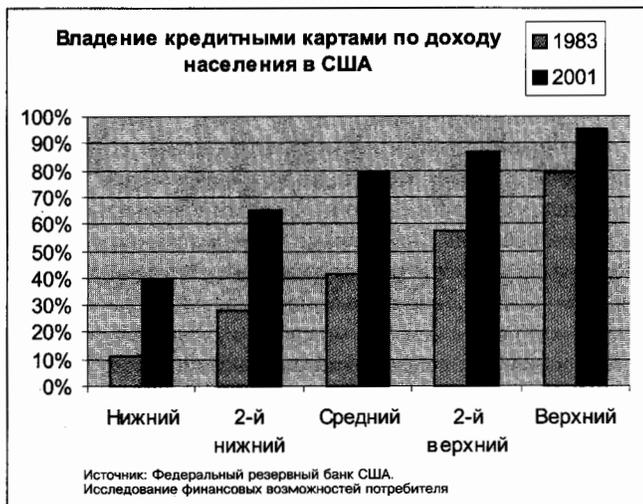
С 80-х годов академические круги как Европы, так и Соединенных Штатов провели значительные экспериментальные исследования по вопросу взаимодействия неприкосновенности частной жизни и информационных потоков. Некоторые сведения, полученные в ходе данных исследований, могут быть полезными для казахстанских дебатов.

В оценке, представленной конгрессу США 8 мая 2003 года доктором Майклом Стэйтоном, одним из самых известных экспертов в мире по системам кредитных бюро, говорится, что «макроэкономическая выгода от хорошо функционирующих кредитных рынков может быть снова привязана к введению комплексной системы раскрытия информации о займах и

² Полное название законодательного документа «Директива 95/46/ЕК Европейского парламента и совета по защите физических лиц в отношении обработки персональной информации и ее свободного передвижения от октября 1995 года».

платежах потребителя». Кредитные бюро служили для предоставления возможностей бедным и, в конечном анализе, «(имеют) имели в буквальном смысле преобразовательное воздействие на жизнь менее состоятельных слоев населения, молодежи и тех, кто проживает в небольших городах и сельской местности. «Демократизация» описывает широкое и выгодное воздействие, но наилучшая мера воздействия здоровой национальной кредитной отчетности измеряется повышением уровня жизни миллионов людей³».

Данное заключение также поддерживается в последней работе Туллио Хапелли и Марко Пагано «Обмен информацией, предоставление кредитов и дефолты: свидетельства, собранные по всей стране»⁴. Авторы отмечают, что совокупное банковское кредитование (измеряемое по ВВП страны) в 43 странах, где установлены системы обмена информацией, больше, чем в странах, где кредитные бюро отсутствуют. С расширением кредитования также значительно снизился уровень дефолтов, что произошло благодаря кредитным отчетам.



В странах, где потоки информации наиболее ограничены, уровень обращения кредитных карт самый низкий, а концентрация в банковском секторе - самая высокая. Рост количества кредитных карт, зависящий от дохода населения, представляет собой поразительную статистику.

Так, в Соединенных Штатах доступ к кредиту для слоев населения, пользующихся наименьшими привилегиями, увеличился приблизительно на 250% за последние 20 лет. Более того, кредитные ставки в США на полных 200 пунктов ниже, чем в Европе, благодаря ипотечной секьюритизации - эффективность системы кредитного бюро США делает это возможным и выражается в 120 миллиардах долларов США, которые потребитель экономит ежегодно⁵.

Модель Соединенных Штатов не «навязывается» в Казахстане, она служит ориентиром, являясь полной противоположностью моделям тех стран, где обмен информацией строго ограничен.

Владение кредитными картами, 1997 год (на 1000 человек населения)

Страна	Суперпремиум+ Премиум	Корпоративные	Стандартные	Всего
США	650,4	20,9	945,0	1616,3
Великобритания	91,3	22,5	546,7	660,5
Бельгия	53,0	6,9	197,4	257,3
Нидерланды	38,3	9,4	195,9	243,6
Испания	26,5	4,3	212,0	242,8
Швеция	44,2	46,4	85,8	176,4
Германия	39,7	4,6	127,8	172,1
Италия	18,2	9,7	109,1	137,0
Франция	25,1	3,1	68,3	96,5

Источник: Лин К. Томас, Д. Б. Эдельман и Дж. Н. Крук. Оценка заемщиков и ее применение. Объединение промышленной и прикладной математики. Филадельфия, 2002 год.

По данным Visa International, рост количества кредитных карт в Южной Африке, большей части Восточной Европы и на Среднем Востоке (например, в ОАЭ и в Саудовской Аравии) за последние несколько лет сопровождался лучшим дизайном продукции, лучшим бизнес-моделированием и выявлением мошенничества, одним словом, лучшими портфелями ценных бумаг банков и лучшим доступом к кредитам для большей части населения.

По данным опроса финансовых институтов по всему миру, проведенного Всемирным банком в 2001-2002 годах, более 70 банков считают, что кредитные бюро предоставляли дополнительные услуги, несмотря на «черные дыры» в информации о потенциальных заемщиках. Около 90% всех опрошенных банков полагались на кредитные отчеты для проведения более качественной оценки кредитных рисков, прежде чем предоставить кредит предприятиям малого и среднего бизнеса.

В ходе того же исследования Всемирным банком было выявлено, что банки использовали кредитные отчеты для проверки заемщиков приблизительно в 95% случаев.

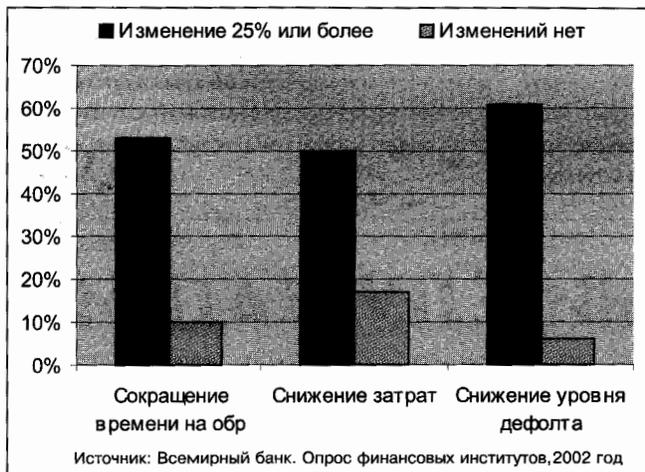
Кредитные бюро разъясняют, как качество портфелей клиентов банка повысилось, несмотря на их быстрый рост. В некоторых латиноамериканских странах периодические банковские кризисы, которые в основном приписываются к макроэкономическим проблемам, могут частично относиться к неэффективной деятельности кредитного бюро.

Кредитные бюро разрабатывают продукцию и услуги,

³ Оценка Доктора Стэйтона главным образом основана на 20-летнем исследовании, посвященном экономике потребителя и рынкам ипотечного кредитования. Его последние публикации по кредитной отчетности включают: «Ценность исчерпывающих кредитных отчетов: Уроки опыта США»; доктор Дж. М. Баррон, факультет экономики, Университет Purdue; и доктор Майкл Стэйтон, Центр кредитного исследования, Университет Джорджтауна; Системы кредитной отчетности и международная экономика, подготовленная к печати Маргарет Миллер. Пресса муниципального инвестиционного треста, весна 2003 года; и «Финансовая неприкосновенность частной жизни; Процветание потребителя и общественные блага: сохранение баланса» Ф. Гейт, Р. Литан, М. Стэйтон и П. Уаллисон, Объединенный центр нормативных исследований маклеров по страхованию дополнительных расходов, апрель 2003 года.

⁴ Туллио Хапелли и Марко Пагано. Распределение информации, предоставление кредитов и дефолты: свидетельства, собранные по всей стране (2002). Журнал по банковской деятельности и финансам. Том 26. 2017-2045. Данная работа актуальна с точки зрения воздействия информационных потоков на сектор малого и среднего бизнеса.

⁵ Изучение Тауэр Групп. Отчет доктора Стэйтона, оценка эксперта, представленная конгрессу США 8 мая 2003 года.



рассчитанные строго на их клиентов. В Польше, например, финансовый сектор полностью полагается на услуги, предоставляемые BIK (Biuro Informacji Kredytowej). В 2001 году BIK продало полмиллиона кредитных отчетов – в первый год своей работы. В 2003 году они продали уже более 4 миллионов кредитных отчетов. Данная услуга должна быть очень полезной, иначе банки добровольно не платили бы за нее. Похожая ситуация наблюдается в Чешской Республике, где бюро получает более 65 000 запросов в месяц, и ожидается, что эта цифра достигнет 1 миллиона запросов в 2004 году.

Частное кредитное бюро создается, прежде всего, с целью обеспечения кредиторов тремя типами основных данных для принятия более целесообразных решений по кредитам: а) подтверждение идентификации потребителя; б) оценка кредитного риска потребителя и предприятий малого бизнеса (при использовании как позитивной, так и негативной информации), которая отражает желание, способность, возможность и прошлую историю физического лица по исполнению его обязательств; и в) возможности выявления мошенничества. Рынок просто не потерпит неэффективности предоставления и получения данных, несоответствующей и устаревшей продукции и ограниченности услуг. Опыт показывает, что частные бюро осуществляют данную деятельность лучше, чем государственные, особенно при реагировании на жалобы потребителей, пробелы и ошибки в информации. Персонал экспертов по услугам потребителей в Experian, одном из трех лидирующих кредитных бюро в мире, например, составляет более 1 500 человек, которые работают исключительно по вопросам, поступающим от физических лиц.

При попытке найти баланс между неприкосновенностью частной жизни и обменом информацией важно помнить, что жесткое законодательство о неприкосновенности частной жизни может испугать как местных, так и международных инвесторов. Запуск и обеспечение работы кредитных бюро является технологически сложным и дорогостоящим процессом. Во имя такой неприкосновенности нет необходимости расширять регулятивные требования и насыщать закон неработающими положениями, которые удерживают владельца/оператора кредитного бюро, местного или иностранного, от инвестирования долгосрочного капитала в рискованное предприятие. Законодательные власти не регулируют внутреннюю деятельность кредитных бюро, и

не рассматривают кредитные бюро в качестве финансовых институтов. Кредитные бюро в отличие от банков, не исполняют фидуциарные обязанности.

Законный обмен информацией является краеугольным камнем для преуспевающего потребительского кредитного рынка. Это верно как для Германии и Англии, так и для Японии и Мексики. Обработка данных должна основываться на минимальной ответственности профессионального оператора; в противном случае цены могут потенциально взлететь и непреднамеренно погубить все приложенные усилия. Дебаты в мажоритете, которые будут иметь место осенью 2003 года, станут переломным событием для финансового сектора и для всех остальных, кто ожидает принятия закона.

Создание проверенного индустрией механизма, который предлагает людям равные возможности в жизни и в то же время повышает уверенность в системе в целом – это механизм, предоставляющий трудолюбивому, честному потребителю, информация о котором до сих пор не была зарегистрирована в кредитном бюро, возможность получения ипотечного кредита, возможность отправить детей в лучшие школы или открыть небольшой магазин, при условии получения согласия потребителя на раскрытие информации о нем.

Кредитное бюро укрепит первичные рынки ипотеки, авторынки, рынки розничной торговли и кредитных карт. Оно ускорит секьюритизацию дебиторских задолженностей потребителей. Кредитное бюро предоставит большие возможности среднему классу и в долгосрочном плане обеспечит большую устойчивость к экономическим потрясениям. Оно будет способствовать сохранению доверия со стороны органов управления к финансовой системе.

Учитывая поддержку Национального банка Казахстана, частных банков, а также присутствие в Астане опытных профессионалов из международных компаний, более чем разумно предположить, что Парламент примет закон, «попадающий в цель», – сбалансированный закон, который в первую очередь защищает неприкосновенность частной жизни, но вместе с тем позволяет производить обмен данными по разумной цене, а также даст возможность кредитному бюро самостоятельно управлять своими делами. Такой подход откроет двери профессионалам, работающим в кредитных бюро, и стратегическим партнерам для того, чтобы начать деятельность как можно раньше. Увеличится доступ к кредиту среди широких масс населения и предприятий малого бизнеса.

Все будут следить за приближающимися дебатами, включая Россию, Украину, а также центральноазиатские республики. Возможно, что развитие казахстанской системы кредитной отчетности будет продемонстрировано на конференции по кредитному бюро в Москве в ноябре 2003 года и на четвертой Всемирной конференции по потребительскому кредитному бюро в Пекине в 2004 году. **IC**

Keywords

Credit bureaux
 Credit reporting systems
 Parliamentary debate
 Consumer protection
 Data processing
 Empirical research

Kazakhstan prepares itself for first credit reporting system

by Javier Piedra

Among the CIS countries, the Republic of Kazakhstan is arguably the best positioned to establish a functional best practice private credit bureau in the near term.

A system of credit bureaux in Kazakhstan has broad support among the country's private banks, Kazakhstan's Association of Financiers, its retail sector and small business enterprises (SMEs). These groups all understand that credit bureaux directly contribute to economic development, increase consumer access to credit, improve bank risk management, and lead to asset diversification and new banking products.

In addition, credit bureaux empower the middle class, bring more equitable treatment to households when applying for credit and stimulate the development of the SME sector. Moreover, these objectives are in line with the National Bank of Kazakhstan's (NBK) strategic vision.

Key government ministries have also added their support, thanks to the efforts of the NBK, which is spearheading this initiative with the technical assistance of the US Agency for International Development (USAID). Major international credit bureau operators such as Experian (based in the US and the UK), Baycorp Advantage (Australia) and CRIF (Italy) are engaged in the process. These organisations, as well as Visa International, have visited Kazakhstan at least once in 2003. The International Finance Corporation, as a potential strategic investor, has also expressed its support. Technical assistance, beyond that which USAID is already providing, could commence in the coming months pending final agreement among the major private sector stakeholders, the Kazakhstan government and parliament on some key legislative issues.

November decision

In this respect, Kazakhstan's parliament is expected to debate and pass a new law on credit bureaux and the formation of credit histories in the republic by November. This law will lay down the legal basis for the first comprehensive credit reporting system in the CIS.

This law is so important that local members of parliament have requested the NBK, together with a major international credit bureau operator and the Germany-based European Association of Credit Bureau Suppliers (ACCIS), to be on hand to answer questions during the autumn 2003 parliamentary debates. The law is key, and everyone knows it.

This autumn will be a seminal time for the financial services sector in Kazakhstan – and indeed for the whole Commonwealth of Independent States (CIS) region – as the country's parliament prepares to vote on new laws that could lay the foundations for the establishment of the region's first system of credit bureaux. Javier Piedra, senior advisor at US-based international development consultancy The Pragma Corporation, reports.

Even Kazakhstan's president has weighed in, citing a credit bureau system in Kazakhstan as one of the top 10 priorities within the financial sector for the next six months.

The draft law includes specific features such as the inclusion of positive and negative data (unlike in Australia, Hong Kong, Singapore and Korea, which only have negative databases – a mistake these countries would probably like to reverse), and a mandate for financial institutions to transfer data to a licensed credit bureau. By sharing both positive and negative information, banks improve lending decisions, use risk-based scoring methodologies more proficiently, enhance credit line performance and diminish fraud.

From a consumer standpoint, those with a proven positive credit history benefit because positive data gives the creditor (whether a bank, retail store or utility company) a much broader picture of an applicant's historical payment performance. Benefits to the consumer could include, for example, higher credit limits or the ability to take on additional loans allowing for even greater purchasing power in the economy. The credit decision always remains with the bank and is not the responsibility of the credit bureau.

A mandate in the law would build on current practice since the NBK already requires financial institutions to report to the bank on a monthly basis. The difference with existing practice is that a licensed private credit bureau would be eligible to receive data pursuant to the mandate, and, therefore, start with an "instant database". This simply means that the credit bureau, after technical issues are resolved and demographic data is loaded in, would in theory reach breakeven sooner than under a purely voluntary system.

Parliamentary debate

The all-important parliamentary debate will most likely centre around 1) the role and powers of the soon-to-be-established supervisory

body, and, 2) the extent to which the government feels it is necessary to protect consumer privacy.

It is universally agreed that any credit reporting system must reflect basic principles which underpin a consumer's right to privacy: ie the right to obtain a credit report within a reasonable time, at a reasonable cost and in a reasonable way; the right to dispute data and have it corrected in a timely fashion; the right to know the purpose for data collection; the right to limit the type of data collected; the right to limit its transferability; the right to demand that data be accurate; and the right to know that there are remedies in the event of data misuse. The credit bureau law in Kazakhstan should contain language to defend these consumer rights.

Most data processing laws around the world require written consumer consent before confidential data can be released to a third party – in Kazakhstan consent legislation is already in place. It is tough, clear and fundamentally consistent with legislation in the European Union (EU). By contrast, banking laws in Croatia, Poland and the Czech Republic permit banks to collect and distribute data within the banking sector without the consent of the consumer.

The issue facing Kazakhstan – just like in Latin America, Europe, Asia and North America – is to find the right balance between privacy and information exchange. The question boils down to how much privacy legislation is required to protect citizens from unscrupulous users of the service, and what the cost of privacy legislation would be to the economy and the country's citizens. In other words, there is a direct cost to the consumer in terms of higher prices, higher interest rates and restricted access to credit when excessive privacy legislation (ie excessive regulation) interferes with the exchange of personal identification and credit history data.

Complex debate

The debate is complex. Continental Europe and those countries with Anglo-Saxon traditions have different conceptions about what personal data is and how it can be used, and about the role of government in the regulation of information flows. The differences are material only if taken to their extremes, ie the right to absolute privacy as against unrestricted freedom of information flows. No serious observer takes the extreme positions.

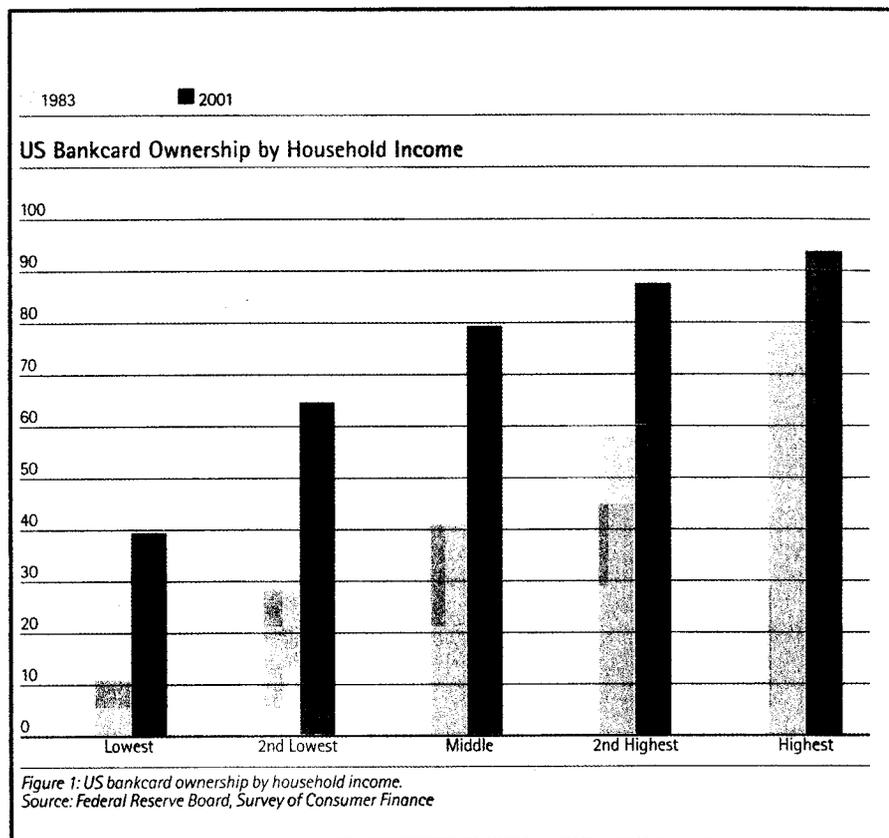
What is clear is that regulatory authorities in the EU and in eastern Europe encourage information exchange as long as it does not violate a consumer's basic right to privacy. Data processing principles recognise that information flows are an essential condition to stimulate long-term economic growth or, to put it differently, to reduce adverse economic selection effects, oligopolistic tendencies and credit rationing.

It is partly for this reason that parliaments throughout Europe and elsewhere encourage information exchange and do not pass legislation which micro-manages data processors at the operational level. Rather, legislation reflects high-level principles as embodied in the 1995 EU Data Protection Directive (95/46). EU legislation is also designed to remove barriers (mainly regulatory mismatches between member states) that hinder the establishment of a single internal European market.

Since the 1980s, the academic community in both Europe and the US has produced considerable empirical research concerning the interplay between privacy and information flows. Some of the findings from this research are instructive for the debate in Kazakhstan.

Improved opportunities

In expert testimony before the US Congress on May 8 this year, Dr Michael Staten, one of the world's foremost experts on data reporting systems, reported that "the macroeconomic benefits from smoothly functioning credit markets can be linked back to the establishment of a comprehensive system for sharing consumer borrowing and payment histories." Credit bureaux have served to expand opportunities for the poor, and, in the final analysis, "[have] had a literally transforming effect on the lives of less well-off individuals, young adults and those located in small towns and rural areas. 'Democratisation' describes a broad and beneficial effect, but the greatest measure of the impact of robust, national



credit reporting is measured in the millions of individual lives improved.¹

This conclusion is also supported by the recent work of Drs Tullio Jappelli and Marco Pagano in "Information Sharing, Lending and Defaults: Cross-country Evidence"². They showed that aggregate bank lending in 43 countries (scaled by country GNP) with established information exchange systems is larger than in countries where there is no credit reporting. Significantly, as lending increased, default rates also declined because of credit reporting.

In countries where data flows are most restricted, credit card ownership, for example, is the lowest, and concentration in the banking sector is the highest. The growth in credit cards by household income is a very striking statistic – in the US, for example, access to credit by the most underprivileged in society expanded by nearly 250 per cent over the past 20 years (see Figure 1 above).

Moreover, mortgage rates in the US have been a full 200 basis points lower than in Europe because of mortgage securitisation – the effectiveness of the US credit reporting

system make this possible, and translates into US\$120bn in savings a year to the consumer³. While no one is arguing for the US model in Kazakhstan, it does serve as a benchmark and stands in stark contrast to those countries that severely restrict information exchange.

According to Visa International, the growth of credit cards in South Africa, much of eastern Europe and the Middle East (UAE and Saudi Arabia, for example) over the past few years has been accompanied by improved product design, business modelling, and fraud detection – in a word, superior bank portfolios and greater access to credit to a larger segment of the populations.

In the same World Bank study, banks used credit reports to screen borrowers requesting mortgages in approximately 95 per cent of cases. Credit bureaux help explain how the quality of bank consumer portfolios has improved despite rapid growth. In some Latin American countries, periodic banking crisis, while mainly attributed to macroeconomic problems, can be partly linked to ineffective credit reporting environments.

Keywords

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- Empirical research

Tailor-made services

Credit bureaux develop products and services that are tailored to their clients. In Poland, for example, the financial sector relies heavily on the services that the local bureau, Biuro Informacji Kredytowej (BIK), provides. In 2001 – its first year of operation – BIK sold half a million credit reports. In 2003, BIK has already sold over four million reports. The service must be useful or else the banks would not freely pay for it. Likewise, in the Czech Republic, the bureau receives over 65,000 enquiries monthly, and expects to reach one million requests in 2004.

A private credit bureau is established first and foremost to provide the lending community with three types of basic data to improve the credit decision: a) consumer identity confirmation; b) consumer and small business credit risk assessment (using both positive and negative information) which reflects an individual's willingness, capacity, ability and past history in honouring their obligations; and c) fraud identification capabilities. The market will simply not tolerate inefficiencies in data access and delivery, poorly designed and out-dated products and limited services.

Experience shows that private bureaux perform these activities better than their public counterparts, particularly in responding to customer complaints and gaps or errors in information. Experian, one of the world's three leading credit bureaux, for example, has a staff of over 1,500 customer service agents just to handle incoming questions from individuals.

When trying to find the balance between privacy and information exchange, it is important to keep in mind that ironclad privacy legislation could spook both domestic and international investors. Credit bureaux are technology-intensive and expensive to launch and operate. There is no need to add mounds of regulatory requirements and drop dead triggers in the law, in the name of privacy, which deter a credit bureau owner/operator, domestic or foreign, from investing long-term capital in a risky venture. Legislatures do not regulate the internal activities of credit bureaux, nor do they consider credit bureaux as financial institutions. Credit bureaux, unlike banks, do not have fiduciary responsibilities.

The legitimate exchange of information is a corner stone for a vibrant consumer credit market. This is as true in Germany and the UK as it is in Japan and Mexico. Data processing must be based on a minimum of trust in the professional operator; otherwise costs can potentially skyrocket and unwittingly scuttle the entire effort. The autumn parliamentary

Country	Super premium + Premium	Corporate	Standard	Total
US	650.4	20.9	945.0	1,616.3
UK	91.3	22.5	546.7	660.5
Belgium	53.0	6.9	197.4	257.3
Netherlands	38.3	9.4	195.9	243.6
Spain	26.5	4.3	212.0	242.8
Sweden	44.2	46.4	85.8	176.4
Germany	39.7	4.6	127.8	172.1
Italy	18.2	9.7	109.1	137.0
France	25.1	3.1	68.3	96.5

Figure 2: Credit card ownership in 1997

Source: Society for Industrial and Applied mathematics, Philadelphia, US, 2002

debate will be a watershed event for the financial sector and for all those on the sidelines anticipating passage of the law.

A credit bureau will strengthen the primary mortgage, car, retail and credit card markets. It will accelerate the securitisation of consumer receivables. It will help empower the middle class with greater mobility, greater opportunity, and, in the long run, provide greater resiliency to economic shocks. It will assist the regulatory authorities to preserve trust in the financial system.

Are not these the real issues? The creation of an industry-tested mechanism that offers people a fairer shake in life, and that at the same time boosts confidence in the overall system; a mechanism that provides the hard working, honest, hitherto unknown consumer, with his consent, a better opportunity to obtain a mortgage, to send his children to the best schools or to open a corner shop.

Balanced law

Given the support of the NBK, the private banks, and the presence in Kazakhstan's capital, Astana, of seasoned international professionals, it is more than reasonable to assume that parliament will pass legislation that hits the mark – a balanced law that in the first instance protects personal privacy, but that at the same time allows for data exchange at a reasonable cost, which is sensitive to a credit bureau's need to manage its own affairs. Such an approach will open the door for credit bureau professionals and strategic investors to start operations sooner rather than later. Access to credit across wide sectors of the population and small business will increase.

Everyone will be watching the upcoming debates, including Russia, Ukraine and the

other Central Asian Republics. It might even be possible to showcase the development of the Kazakhstan credit reporting system at the November 2003 Credit Bureau conference in Moscow and at the forthcoming 2004 Fourth Consumer Credit Reporting World Conference in Beijing.



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ОБРАЩЕНИЕ БАНКА ЦЕНТМКРЕДИТ К ПРЕДПРИЯТИЯМ МАЛОГО И СРЕДНЕГО БИЗНЕСА

Повышение финансовой прозрачности предприятий - главное условие роста кредитования реального сектора

В своем ежегодном Послании к народу Президент РК Нурсултан Назарбаев заявил о необходимости «создания предпринимательского климата, конкурентной среды, системы общественных институтов, которые будут стимулировать частный сектор к созданию производств с высокой добавленной стоимостью.» Эта задача невыполнима без повышения доступности банковских кредитов для малого и среднего бизнеса. Правительству, Национальному банку, Ассоциации финансистов, руководителям банков глава государства поручил разработать меры по упрощению процедуры выдачи кредитов и снижению процентной ставки по ним.

Что мешает банкам кредитовать небольшие предприятия? Прежде всего, это высокая степень кредитного риска, отсутствие ликвидных залогов, возможность в короткий период окупить взятые в кредит средства и четко проработанных маркетинговых планов.

Но самый главный фактор риска - это непрозрачность финансовой отчетности большинства малых и средних предприятий из-за желания снизить налоговое бремя.

Для успешной реализации Государственной программы развития малого предпринимательства и Программы индустриально-инновационного развития до 2015 года в части банковского кредитования реального сектора, на наш взгляд, необходимо принять следующие меры.

- государственное субсидирование части процентных выплат по банковским кредитам небольшим предприятиям,
- создание системы государственных гарантий по кредитам, предоставляемым субъектам малого предпринимательства.

- Использование опыта ряда стран для обеспечения выдаваемых займов корпораций по страхованию кредитов, специальных институтов взаимного поручительства, ассоциаций по гарантированию займов.

Выступая на 3-м Конгрессе финансистов Нурсултан Назарбаев сказал, что "... со своей стороны банки тоже не заинтересованы предоставлять кредиты предприятиям без соответствующей репутации и кредитной истории... Этим обусловлена актуальность вопроса создания кредитного бюро, основной деятельностью которого будет являться формирование, ведение кредитных историй и предоставление кредитных отчетов". Президент поручил Национальному банку и Ассоциации финансистов в ближайшее время разработать проект закона о кредитном бюро и внести его на рассмотрение Правительства.

Правительство проделало огромную работу для подготовки законодательной, налоговой и финансовой базы развития субъектов малого предпринимательства. Государство и банки предпринимают большие усилия для того, чтобы сделать рынок кредитов более цивилизованным, снизить риски и, соответственно, процентную ставку по кредитам. Но и предприятия, которые более всех заинтересованы в повышении доступности банковских кредитов, должны со своей стороны поддерживать эти инициативы, сделать свою деятельность более прозрачной.

Мы призываем все предприятия малого и среднего бизнеса, работающие в Казахстане, способствовать дальнейшему развитию денежно-кредитного рынка, повышать качество менеджмента и поддерживать транспарентные взаимоотношения с банками.

Один из путей решения этой проблемы ускорение внедрения новых стандартов бухгалтерского учета, проведение ежегодных аудиторских проверок, раскрытие информации об акционерах и аффилированных компаниях.

Совместными усилиями мы сможем решить проблему обеспечения экономики финансовыми средствами, что, в конечном итоге, послужит процветанию нашей страны.



ПРОГРАММА КОНФЕРЕНЦИИ, ПОСВЯЩЕННОЙ 10-ЛЕТИЮ ВВЕДЕНИЯ НАЦИОНАЛЬНОЙ ВАЛЮТЫ И 15 ЛЕТИЮ БАНКА ЦЕНТМКРЕДИТ

**16 сентября 2003 г. 15⁰⁰**
**конференц-зал «Арна»,
Достык Бизнес Центр
Алматы**

«ФИНАНСОВАЯ ПРОЗРАЧНОСТЬ
ПРЕДПРИЯТИЙ
КАК КЛЮЧЕВОЙ ФАКТОР
КРЕДИТОВАНИЯ
МАЛОГО И СРЕДНЕГО БИЗНЕСА»

16 сентября 2003 г. 15⁰⁰
конференц-зал «Арна»,
Достык Бизнес Центр
Алматы

Модератор: д.э.н., профессор,
заслуженный деятель РК,
почетный директор РГП
«Институт экономических
исследований»
г-н Есентугелов А.Б.

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A Credit Reporting System in Kazakhstan Increased Access to Credit Success from a Balance Approach

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Among the CIS countries, the Republic of Kazakhstan is arguably the best positioned to establish a functional best practice private credit bureau in the near term. These are the reasons regardless of issues outstanding.

A system of credit bureaus in Kazakhstan has broad support among the private banks, the Association of Financiers, the retail sector and small business enterprises (SME). These groups all understand that credit bureaus a) directly contribute to economic development, b)

Система Кредитного Бюро в Казахстане Расширение доступа к кредитным ресурсам Успех сбалансированного подхода

ХАВЬЕР М. ПИЕДРА является Старшим Советником Корпорации «Прагма», где он отвечает за внедрение Кредитного Бюро в рамках программы ЮСАИД по развитию финансового сектора в Казахстане. Программа по развитию финансового сектора оказывает содействие Национальному Банку Казахстана и частному сектору в укреплении казахстанских рынков капитала, ипотечного кредитования, страхования и системы частных пенсионных фондов. Идеи, выраженные в данной статье, являются субъективными и не отражают взглядов Правительства США и Агентства США по Международному Развитию.

Среди стран СНГ Республика Казахстан, вероятнее всего, создаст в ближайшее время частное кредитное бюро, чья организация и деятельность будет основана на передовой мировой практике. Ниже приведены аргументы, несмотря на некоторые спорные вопросы.

Идея создания кредитных бюро в Казахстане пользуется широкой поддержкой частных банков, Ассоциации финансистов, сектора розничной торговли и малого и среднего бизнеса (МСБ). Все данные группы понимают, что кредитные бюро: а) напрямую способствуют экономическому развитию;

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increase consumer access to credit, c) improve bank risk management, and d) lead to asset diversification and new banking products. Credit bureaus empower the middle class, bring more equitable treatment to households when applying for credit, and stimulate the development of the SME sector. These objectives are right in line with the National Bank of Kazakhstan's (NBK) strategic vision.

Key government ministries are also on board thanks to the hard work of the National Bank of Kazakhstan, which is spearheading this initiative with the technical assistance of the United States Agency for International Development (USAID). Major international Credit Bureau operators such as Experian (US and UK), Baycorp Advantage (Australia) and CRIF (Italy) are engaged in the process. These organizations, as well as Visa International, have visited Kazakhstan at least once in 2003. The International Finance Corporation, as a potential strategic investor, has expressed its support. Technical assistance, beyond that which USAID is already providing, could commence in the coming months pending final agreement among the major private sector stakeholders, the Government, and Parliament on some key legislative issues.

In this respect, Parliament is expected to debate and pass a new law «On Credit Bureaus and the Formation of Credit Histories in the Republic of Kazakhstan» by November 2003. This law will lay down the legal basis for the first comprehensive credit reporting system in the CIS.

This law is so important that members of Parliament have requested the NBK, together with a major international credit bureau operator, and the Germany based European Association of Credit Bureau Suppliers (ACCIS), to be on hand to answer questions during the fall 2003 parliamentary debates. The law is key, and everyone knows it. Even the President of Kazakhstan has weighed in, citing a credit bureau system in Kazakhstan as one of the top 10 priorities within the financial sector over the next 7 year.

The draft law includes specific features such as a) the inclusion of positive and negative data¹ (unlike in Australia, Hong Kong, Singapore and Korea which only have

б) увеличивают возможности потребителей в получении кредитов; в) улучшают систему управления рисками в банках; и г) ведут к диверсификации активов и появлению новых банковских продуктов. Кредитные бюро расширяют возможности среднего класса, обеспечивают более объективное отношение к населению при кредитовании, а также стимулируют развитие сектора малого и среднего бизнеса. Указанные цели точно соответствуют стратегическому видению Национального Банка Казахстана по данному вопросу.

Ключевые министерства также одобряют данную инициативу благодаря упорной работе Национального Банка Казахстана, который возглавляет ее при техническом содействии Американского Агентства по Международному Развитию (ЮСАИД). Крупнейшие международные операторы кредитных бюро, такие как Experian (США и Великобритания), Baycorp Advantage (Австралия) и CRIF (Италия) также принимают в этом участие. Представители данных организаций, равно как и Visa International, посетили Казахстан в 2003 году, по меньшей мере, по одному разу. В качестве потенциального стратегического инвестора, свое одобрение по этому вопросу выразила Международная Финансовая Корпорация. Дополнительное техническое содействие, помимо содействия, уже оказываемого ЮСАИД, может быть предоставлено в ближайшие месяцы после того, как будет достигнуто соглашение между основными заинтересованными сторонами, представляющими частный сектор, правительство и парламент по некоторым ключевым законодательным вопросам.

В этом отношении ожидается, что Парламент к ноябрю 2003 года обсудит и примет новый закон «О Кредитном бюро и формировании кредитных историй в Республике Казахстан». Данный закон обеспечит законодательную базу для первой комплексной системы кредитного бюро на территории СНГ.

Этот закон настолько важен, что депутаты Парламента обратились с просьбой к Национальному Банку Республики Казахстан, а также к крупнейшему международному оператору кредитного бюро и Европейской Ассоциации поставщиков информации кредитным бюро (ACCIS), базирующейся в Германии, оказать консультационную поддержку в ходе парламентских дебатов осенью 2003 года. Закон является ключевым фактором и все это знают. Президент Республики Казахстан также придает этому вопросу большое значение, назвав создание системы кредитного бюро в Казахстане одним из 10 приоритетов финансового сектора в течение последующих 6 месяцев.

Законопроект включает специфические положения, такие как: а) сбор как позитивных, так и негативных данных¹ (в отличие от Австралии, Гонконга,

negative data bases – a mistake these countries would probably like to reverse), and b) a mandate for financial institutions to transfer data to a licensed credit bureau. By sharing both positive and negative information, banks improve lending decisions, use risk based scoring methodologies more proficiently, enhance credit line performance, and diminish fraud.

From a consumer standpoint, those with a proven positive credit history benefit because positive data gives the creditor (whether a bank, retail store or utility company) a much broader picture of an applicant's historical payment performance. Benefits to the consumer could include, for example, higher credit limits or the ability to take on additional loans allowing for even greater purchasing power in the economy. The credit decision always remains with the bank and is not the responsibility of the credit bureau.

A mandate in the law would build on current practice since the NBK already requires financial institutions to report to the bank monthly. The difference with existing practice is that a licensed private credit bureau would be eligible to receive data pursuant to the mandate, and, therefore, start with an «instant database». This simply means that the credit bureau, after technical issues are resolved and demographic data is loaded-in, would in theory reach breakeven sooner than under a purely voluntary system.

The all-important debate in the Parliament will most likely center around 1) the role and powers of the to-be established Supervisory Body, and, 2) the extent to which the government feels it is necessary to protect consumer privacy.

It is universally agreed that any credit reporting system must reflect basic principles which underpin a consumer's right to privacy, i.e., the right to obtain a credit report within a reasonable time, at a reasonable cost, and in a reasonable way; the right to dispute data and have it corrected in a timely fashion; the right to know the purpose for data collection; the right to limit the type of data collected; the right to limit its transferability; the right to demand that data be accurate; and the right to know that there are remedies in the event of data misuse. The credit bureau law in Kazakhstan should contain language to defend these consumer rights.

Сингапура и Кореи, где имеются лишь базы негативных данных – ошибка, которую, возможно, эти страны хотят поправить); и б) обязательность предоставления данных финансовыми институтами лицензированному кредитному бюро. При наличии как позитивной, так и негативной информации, банки способны принимать более обоснованные решения по выдаче кредитов, повышают целесообразность использования методологии качественной оценки с учетом рисков, улучшают эффективность кредитных линий и снижают уровень мошенничества.

Преимущества, с точки зрения потребителей, заключаются в том, что те из них, кто имеет надежную, положительную кредитную историю, получают более высокие кредитные лимиты, что обеспечит еще более высокую покупательную способность в экономике.

Прописанная в законе обязательность предоставления данных будет основываться на уже существующей практике, в соответствии с которой Национальный Банк Республики Казахстан требует от финансовых институтов предоставления ежемесячной отчетности. Отличие от существующей практики заключается в том, что лицензированное частное кредитное бюро будет иметь право получать данные согласно положению об обязательном предоставлении данных и, соответственно, начать с базы данных, которая «в силу обязательности предоставления данных, не требует длительного приготовления». Это означает, что кредитное бюро, после разрешения технических вопросов и загрузки идентификационных данных, теоретически, достигнет уровня безубыточности быстрее, чем при полностью добровольной системе.

Наиболее значительные споры в Парламенте возникнут, скорее всего, вокруг следующих вопросов: 1) роль и полномочия органа надзора, который предстоит выбрать; и 2) уровень, до которого Правительство считает необходимым защищать неприкосновенность частной жизни.

Общепризнанно, что любая система кредитного бюро должна отражать основные принципы, подерживающие право на неприкосновенность частной жизни гражданина, то есть право на получение кредитного отчета в разумные сроки, по разумной цене и разумным способом; право на оспаривание данных и на своевременное внесение исправлений; право на получение информации о цели сбора данных; право на ограничение типа собираемых данных; право на ограничение раскрытия данных; право на ограничение раскрытия данных; и право знать, что существуют средства судебной защиты в случае несанкционированного использования данных. Закон о кредитном бюро в Казахстане должен содержать формулировки по защите данных прав потребителя.

Most data processing laws around the world require written consumer consent before confidential data can be released to a third party – in Kazakhstan consent legislation is already in place. It is tough, clear and fundamentally consistent with legislation in the EU. In Croatia, Poland and the Czech Republic, on the other hand, banking laws permit banks to collect and distribute data within the banking sector without the consent of the consumer.

The issue facing Kazakhstan – just like in Latin America, Europe, Asia, and North America – is to find the right balance between privacy and information exchange. The question boils down to a) how much privacy legislation is required to protect the citizenry from unscrupulous users of the service, and b) what is the cost of privacy legislation to the economy and to its citizens. In other words, there is a direct cost to the consumer in terms of higher prices, higher interest rates and restricted access to credit when excessive privacy legislation (i.e., excessive regulation) interferes with the exchange of personal identification and credit history data.

The debate is complex. Continental Europe and those countries with Anglo-Saxon traditions have different conceptualizations of «what personal data is», «how it can be used», and the role of government in the regulation of information flows. The differences are material only if taken to their extremes, i.e., the right to absolute privacy vs. the right for unrestricted freedom of information flows. No serious observer takes the extreme positions.

What is clear is that regulatory authorities in the EU and in Eastern Europe encourage information exchange as long as it does not violate a consumer's basic right to privacy. Data processing principles recognize that information flows are an essential condition to stimulate long-term economic growth or, to put it differently, to reduce adverse economic selection effects, oligopolistic tendencies and credit rationing. It is in part for this reason that Parliaments throughout Europe and elsewhere encourage information exchange and do not pass legislation which micro manages data processors at the operational level. Rather legislation reflects high-level principles as embodied in the 1995 European Union's Data Protection Directive (95/46)². Legislation in the European Union is also designed to remove barriers (mainly regulatory mismatches between member states) that hinder the establishment of a single internal European market.

Большинство законов об информации в мире требуют письменного согласия потребителя на раскрытие конфиденциальных данных третьей стороне – в Казахстане аналогичное законодательство уже существует. Это жесткое и ясное законодательство, которое фундаментально соответствует законодательству стран ЕС. С другой стороны, в Хорватии, Польше и Чешской Республике банковское законодательство разрешает банкам собирать и распространять данные внутри банковского сектора без получения согласия потребителя.

Вопрос, стоящий перед Казахстаном, равно как перед Латинской Америкой, Европой, Азией и Северной Америкой – это найти соответствующее равновесие между неприкосновенностью частной жизни и обменом информацией. Данный вопрос сводится к следующему: а) насколько жесткое законодательство о неприкосновенности частной жизни требуется для того, чтобы защитить население от недобросовестных пользователей услуг; и б) какова цена такого законодательства для экономики и для граждан. Иными словами, существуют переменные издержки для потребителя в виде более высоких цен, процентных ставок и ограниченного доступа к кредитам в том случае, когда чрезмерные нормы права о неприкосновенности частной жизни (т.е. чрезмерное зарегулирование) препятствует обмену идентификационными данными и кредитными историями.

Дебаты могут быть продолжительными. Континентальная Европа и страны англо-саксонских традиций имеют другое представление о том, что собой представляют «персональные данные», как они могут быть использованы и какова роль правительства в управлении потоками информации. Различия существенные, если праву абсолютной неприкосновенности частной жизни противопоставить право неограниченной свободы использования информационных потоков. Но ни один серьезный оператор кредитного бюро не станет придерживаться экстремальных позиций.

Очевидно, что регулятивные органы в странах ЕС и Восточной Европе поощряют обмен информацией до тех пор, пока это не нарушает основное право на неприкосновенность частной жизни потребителя. Принципами информационного обмена данными признано, что информационные потоки являются существенным условием стимулирования долгосрочного экономического роста или, иными словами, условием снижения неблагоприятных воздействий от экономического выбора, тенденций олигополии и рационализации кредитных ресурсов. Частично по данной причине, Парламент в Европе или где бы то ни было поощряет обмен информации и не принимает законодательства, которое осуществляет «микроуправление» процессором обработки данных на операционном уровне. Предпочтительнее, чтобы законодательство отражало высокие принципы, как отмечено в Директиве

Since the 1980's, the academic community in both Europe and the United States has produced considerable empirical research concerning the interplay between privacy and information flows. Some of the findings from this research are instructive for the debate in Kazakhstan.

In expert testimony before the U.S. Congress on May 8, 2003, Dr. Michael Staten, one of the world's foremost experts on data reporting systems, reports that «the macroeconomic benefits from smoothly functioning credit markets can be linked back to the establishment of a comprehensive system for sharing consumer borrowing and payment histories». Credit Bureaus have served to expand opportunities for the poor, and, in the final analysis, «have had a literally transforming effect on the lives of less well-off individuals, young adults, and those located in small towns and rural areas. 'Democratization' describes a broad and beneficial effect, but the greatest measure of the impact of robust, national credit reporting is measured in the millions of individual lives improved.³

This conclusion is also supported by the recent work of Drs. Tullio Jappelli and Marco Pagano in «Information Sharing, Lending and Defaults: Cross-country Evidence». They showed that aggregate bank lending in 43 countries (scaled by country GNP) with established information exchange systems is larger than in countries where there is no credit reporting. Significantly, as lending increased, default rates also declined because of credit reporting.

In countries where data flows are most restricted, credit card ownership, for example, is the lowest, and concentration in the banking sector is the highest. The growth in credit cards by household income is a very striking statistic – in the U.S., access to credit by the most underprivileged in society expanded by nearly 250%

по защите данных 1995 года Европейского Союза (95/46).² Законодательство стран Европейского Союза построено таким образом, что способствует устранению барьеров, (главным образом, устранению нормативных несоответствий в законодательствах государств, членов ЕС) препятствующих созданию единого внутреннего европейского рынка.

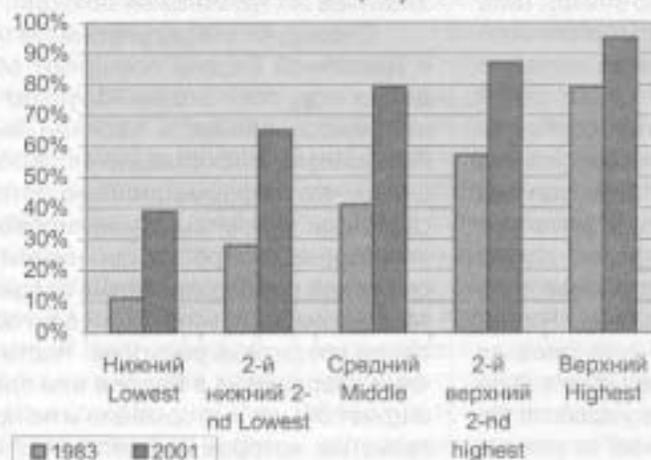
С 1980-х годов, академические круги как Европы, так и Соединенных Штатов провели значительные экспериментальные исследования по вопросу взаимодействия неприкосновенности частной жизни и информационных потоков. Некоторые сведения, полученные в ходе данных исследований, могут быть полезными для казахстанских дебатов.

В оценке, представленной Конгрессу США 8 мая 2003 года, доктором Майклом Стэйтоном, одним из самых известных экспертов в мире по системам кредитных бюро, говорится, что «макроэкономическая выгода от хорошо функционирующих кредитных рынков, может быть снова привязана к введению комплексной системы раскрытия информации о займах и платежах потребителя». Кредитные бюро служили для предоставления возможностей бедным и, в конечном анализе, «(имеют) имели в буквальном смысле преобразовательное воздействие на жизнь менее состоятельных слоев населения, молодежи и тех, кто проживает в небольших городах и сельской местности. «Демократизация» описывает широкое и выгодное воздействие, но наилучшая мера воздействия здоровой, национальной кредитной отчетности измеряется повышением уровня жизни миллионов людей».³

Данное заключение также поддерживается в последней работе Туллио Хяппелли и Марко Пагано «Обмен информации, предоставление кредитов и дефолты: свидетельства, собранные по всей стране».⁴ Авторы отмечают, что

совокупное банковское кредитование (измеряемое по ВВП страны) в 43 странах, где установлены системы обмена информацией, больше, чем в странах, где кредитные бюро отсутствуют. С расширением кредитования, также значительно снизился уровень дефолтов, что произошло благодаря кредитным отчетам.

Владение кредитными картами по ходу населения в США
US Bankcard Ownership by Household Income



Источник: Федеральный Резервный Банк США, Исследование Финансовых возможностей потребителя
Source: U.S. Federal Reserve Board, Survey of Consumer Finance

over the past 20 years. Moreover, mortgage rates in the U.S. have been a full 200 basis points lower than in Europe because of mortgage securitisation – the effectiveness of the U.S. credit reporting system make this possible, and translates into US\$ 120 billion in savings a year to the consumer.⁵ While no one is arguing for the U.S. model in Kazakhstan, it does serve as a benchmark and stands in stark contrast to those countries that severely restrict information exchange.

Credit Card Ownership, 1997
(per 1000 people in population)

Country	Super-premium+ Premium	Corporate rate	Standard	Total
US	650,4	20,9	945,0	1616,3
U.K.	91,3	22,5	546,7	660,5
Belgium	53,0	6,9	197,4	257,3
Netherlands	38,3	9,4	195,9	243,6
Spain	26,5	4,3	212,0	242,8
Sweden	44,2	46,4	85,8	176,4
Germany	39,7	4,6	127,8	172,1
Italy	18,2	9,7	109,1	137,0
France	25,1	3,1	68,3	96,5

Source: Lyn C. Thomas, D. B. Edelman, and J. N. Crook, *Credit Scoring and its applications*, Society for Industrial and Applied Mathematics, Philadelphia, 2002

According to Visa International, the growth of credit cards in South Africa, much of Eastern Europe and the middle east (UAE and Saudi Arabia, for example) over the past few years has been accompanied by improved product design, business modelling, and fraud detection. – in a word, superior bank portfolios and greater access to credit to a larger segment of the populations.

According to a 2001 - 2002 World Bank survey of financial institutions around the world, more than 70 banks found that credit bureaus provided value-added services in the face of information «black holes» about potential borrowers. About 90% of all banks surveyed relied on credit reports to better evaluate credit risks before extending credit to SMEs, retailers and homebuyers.

In the same World Bank study, banks used credit reports to screen borrowers requesting mortgages in approximately 95% of the cases. Credit bureaus help explain how the quality of bank consumer portfolios has improved despite rapid growth. In some Latin American countries, periodic banking crisis, while mainly attributed to macroeconomic problems, can be partly linked to ineffective credit reporting environments.

В странах, где потоки информации наиболее ограничены, уровень обращения кредитных карт самый низкий, а концентрация в банковском секторе – самая высокая. Рост количества кредитных карт, зависящий от дохода населения, представляет собой поразительную статистику.

Так, в Соединенных Штатах, доступ к кредиту для слоев населения, пользующихся наименьшими привилегиями, увеличился приблизительно на 250% за последние 20 лет. Более того, кредитные ставки в США на полных 200 пунктов ниже, чем в Европе, благодаря ипотечной секьюритизации – эффективность системы кредитного бюро США делает это возможным и выражается в 120 миллиардах долларов США, которые потребитель экономит ежегодно.⁵

Модель Соединенных Штатов не «навязывается» в Казахстане, она служит ориентиром, являясь полной противоположностью моделям тех стран, где обмен информацией строго ограничен.

Владение кредитными картами, 1997 год
(на 1000 человек населения)

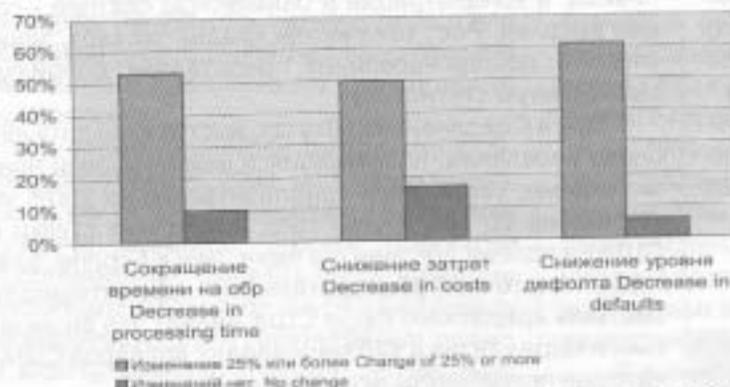
Страна	Супер-премиум+ Премиум	Корпоративные	Стандартные	Всего
США	650,4	20,9	945,0	1616,3
Великобритания	91,3	22,5	546,7	660,5
Бельгия	53,0	6,9	197,4	257,3
Нидерланды	38,3	9,4	195,9	243,6
Испания	26,5	4,3	212,0	242,8
Швеция	44,2	46,4	85,8	176,4
Германия	39,7	4,6	127,8	172,1
Италия	18,2	9,7	109,1	137,0
Франция	25,1	3,1	68,3	96,5

Источник: Лин К. Томас, Д. Б. Эдельман и Дж. Н. Крук, *Оценка заемщиков и ее применение*, Объединение Промышленной и Прикладной Математики, Филадельфия 2002 год

По данным Visa International, рост количества кредитных карт в Южной Африке, большей части Восточной Европы и на Среднем Востоке (например, в ОАЭ и в Саудовской Аравии) за последние несколько лет сопровождался лучшим дизайном продукции, лучшим бизнес моделированием и выявлением мошенничества, одним словом, лучшими портфелями ценных бумаг банков и лучшим доступом к кредитам для большей части населения.

По данным опроса финансовых институтов по всему миру, проведенного Всемирным Банком в 2001-2002 годах, более 70 банков считают, что кредитные бюро предоставляли дополнительные услуги, несмотря на «черные дыры» в информации о потенциальных заемщиках. Около 90% всех опрошенных банков полагались на кредитные отчеты для проведения более качественной оценки кредитных рисков прежде чем предоставить кредит предпрятиям малого и среднего бизнеса.

Индикаторы Исполнения Performance Indicators



Источник: Всемирный Банк, Отдел Финансовых Институтов, 2002 год
Source: World Bank, Survey of Financial Institutions, 2002

Credit Bureaus develop products and services that are tailored to their clients. In Poland, for example, the financial sector relies heavily on the services that the Biuro Informacji Kredytowej (BIK) provides. In 2001, BIK sold half a million credit reports – its first year of operation. In 2003, BIK has already sold over 4 million reports. The service must be useful or else the banks would not freely pay for it. Likewise, in the Czech Republic, the bureau receives over 65,000 inquiries monthly, and expects to reach 1 million requests in 2004.

A private credit bureau is established first and foremost to provide the lending community with three types of basic data to improve the credit decision: a) consumer I.D. confirmation; b) consumer and small business credit risk assessment (using both positive and negative information) which reflects an individual's willingness, capacity, ability and past history in honoring their obligations; and c) fraud identification capabilities. The market will simply not tolerate inefficiencies in data access and delivery, poorly designed and outdated products, and limited services. Experience shows that private bureaus perform these activities better than their public counterparts, particularly in responding to customer complaints and gaps or errors in information. Experian, one the three leading credit bureaus in the world, for example, has a staff of over 1,500 customer service experts just to handle incoming questions from individuals.

When trying to find the balance between privacy and information exchange, it is important to keep in mind that ironclad

В ходе того же исследования Всемирным Банком было выявлено, что банки использовали кредитные отчеты для проверки заемщиков приблизительно в 95% случаев.

Кредитные бюро разъясняют, как качество портфелей клиентов банка повысилось, несмотря на их быстрый рост. В некоторых латиноамериканских странах периодические банковские кризисы, которые в основном приписываются к макроэкономическим проблемам, могут частично относиться к неэффективной деятельности кредитного бюро.

Кредитные бюро разрабатывают продукцию и услуги, рассчитанные строго на их клиентов. В Польше, например, финансовый сектор полностью полагается на услуги, предоставляемые BIK (Biuro Informacji Kredytowej). В 2001 году BIK продали пол-миллиона кредитных отчетов – в первый год своей работы. В 2003 году они продали уже более 4 миллионов кредитных отчетов. Данная услуга должна быть очень полезной, иначе банки добровольно не платили бы за нее. Похожая ситуация наблюдается в Чешской Республике, где бюро получает более 65 000 запросов в месяц и ожидается, что эта цифра достигнет 1 миллиона запросов в 2004 году.

Частное кредитное бюро создается, прежде всего, с целью обеспечения кредиторов тремя типами основных данных для принятия более целесообразных решений по кредитам: а) подтверждение идентификации потребителя; б) оценка кредитного риска потребителя и предприятий малого бизнеса (при использовании как позитивной, так и негативной информации), которая отражает желание, способность, возможность и прошлую историю физического лица по исполнению его обязательств; и в) возможности выявления мошенничества. Рынок просто не потерпит неэффективности предоставления и получения данных, несоответствующей и устарелой продукции и ограниченности услуг. Опыт показывает, что частные бюро осуществляют данную деятельность лучше, чем государственные, особенно при реагировании на жалобы потребителей, пробелы и ошибки в информации. Персонал экспертов по услугам потребителей в Experian, одном из трех лидирующих кредитных бюро в мире, например, составляет более 1,500 человек, которые работают исключительно по вопросам, поступающим от физических лиц.

При попытке найти баланс между неприкосновенностью частной жизни и обменом информацией, важно помнить, что жесткое законодательство о неприкосновенности частной жизни может испугать как ме-

privacy legislation could spook both domestic and international investors. Credit Bureaus are technology intensive and expensive to launch and operate. There is no need to add mounds of regulatory requirements and drop dead triggers in the law, in the name of privacy, which deter a credit bureau owner/operator, domestic or foreign, from investing long-term capital in a risky venture. Legislatures do not regulate the internal activities of credit bureaus, nor consider credit bureaus as financial institutions. Credit bureaus, unlike banks, do not have fiduciary responsibilities.

The legitimate exchange of information is a corner stone for a vibrant consumer credit market. This is as true in Germany and England as it is in Japan and Mexico. Data processing must be based on a minimum of trust in the professional operator; otherwise costs can potentially skyrocket and unwittingly scuttle the entire effort. The fall 2003 debate in the Parliament will be a watershed event for the financial sector and for all those on the sidelines anticipating passage of the law.

A credit bureau will strengthen the primary mortgage, auto, retail, and credit card markets. It will accelerate the securitization of consumer receivables. It will help empower the middle class with greater mobility, greater opportunity, and, in the long run, provide greater resiliency to economic shocks. It will assist the regulatory authorities to preserve trust in the financial system.

Are not these the real issues? The creation of a industry tested mechanism that offers people a fairer shake in life, and that at the same time boosts confidence in the overall system; a mechanism that provides the hard working honest heretofore unknown consumer, with his consent, a better opportunity to obtain a mortgage, to send his kids to the best schools, or to open a corner shop.

Given the support of the NBK, the private banks, and the presence in Astana of seasoned international professionals, it is more than reasonable to assume that the Parliament will pass legislation that hits the mark – a balanced law that in the first instance protects personal privacy, but that at the same time allows for data exchange at a reasonable cost, and that is sensitive to a credit bureau's need to manage its own affairs.

стных, так и международных инвесторов. Запуск и обеспечение работы кредитных бюро является технологически сложным и дорогостоящим процессом. Во имя такой неприкосновенности нет необходимости расширять регулятивные требования и насыщать закон неработающими положениями, которые удерживают владельца/оператора кредитного бюро, местного или иностранного, от инвестирования долгосрочного капитала в рискованное предприятие. Законодательные власти не регулируют внутреннюю деятельность кредитных бюро, и не рассматривают кредитные бюро в качестве финансовых институтов. Кредитные бюро, в отличие от банков, не исполняют фидуциарные обязанности.

Законный обмен информацией является краеугольным камнем для преуспевающего потребительского кредитного рынка. Это верно как для Германии и Англии, так и для Японии и Мексики. Обработка данных должна основываться на минимальной ответственности профессионального оператора; в противном случае, цены могут потенциально взлететь и непреднамеренно погубить все приложенные усилия. Дебаты в Мажилисе, которые будут иметь место осенью 2003 года, станут переломным событием для финансового сектора и для всех остальных, кто ожидает принятия закона.

Кредитное бюро укрепит первичные рынки ипотеки, авторынки, рынки розничной торговли и кредитных карт. Оно ускорит секьюритизацию дебиторских задолженностей потребителей. Кредитное бюро предоставит большие возможности среднему классу и в долгосрочном плане обеспечит большую устойчивость к экономическим потрясениям. Оно будет способствовать сохранению доверия со стороны органов управления к финансовой системе.

Разве эти вопросы не актуальны? Создание проверенного индустрией механизма, который предлагает людям равные возможности в жизни, и в то же время повышает уверенность в системе в целом; механизм, предоставляющий трудолюбивому, честному потребителю, информация о котором до сих пор не была зарегистрирована в кредитном бюро, возможность получения ипотечного кредита, возможность отправить детей в лучшие школы или открыть небольшой магазин, при условии получения согласия потребителя на раскрытие информации о нем.

Учитывая поддержку Национального Банка Казахстана, частных банков, а также присутствие в Астане опытных профессионалов из международных компаний, более чем разумно предположить, что Парламент примет закон, «попадающий в цель» – сбалансированный закон, который в первую очередь защищает неприкосновенность частной жизни, но вместе с тем позволяет производить обмен данными по разумной цене, а также даст возможность кредитному

Such an approach will open the door for credit bureau professionals and strategic investors to start operations sooner rather than later. Access to credit across wide sectors of the population and small business will increase.

Everyone will be watching the upcoming debates, including Russia, Ukraine and the other Central Asian Republics. It might even be possible to showcase the development of the Kazakhstan credit reporting system at the upcoming November 2003 Credit Bureau conference in Moscow and at the 2004 Fourth Consumer Credit Reporting World Conference in Beijing.

¹ Negative data means credit-related information about a consumer such as loan past due status, charge-offs, and bankruptcies. Positive data means credit-related information such as the number of trade lines, balances, activity under each trade line, and credit limits.

² The full title of the legislative document is «Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals and with regard to the processing of personal data and the free movement of such data»

³ Dr. Staten's testimony is largely based on 20 years of research devoted to the economics of consumer and mortgage credit markets. His recent publications relevant to credit reporting include: «*The Value of Comprehensive Credit Reports: Lessons from the U.S. Experience*», Dr. J. M. Barron, Dept. of Economics, Purdue University, and Dr. Michael Staten, Credit Research Center, Georgetown University; *Credit Reporting Systems and the International Economy*, edited by Margaret Miller, MIT Press, spring 2003, and «*Financial Privacy, Consumer Prosperity and the Public Good: Maintaining the Balance*» F. Cate, R. Litan, M. Staten and P. Wallison, AEI-Brookings Joint Center for Regulatory Studies, April, 2003.

⁴ Jappelli, Tullio, and Pagano Marco, «*Information Sharing, Lending and Defaults: Cross-Country Evidence*», (2002), *Journal of Banking and Finance*, Vol. 26, pp 2017-2045. This study is particularly relevant with respect to the impact of information flows to the small and medium size enterprise sector.

⁵ Tower Group study as reported by Dr. Staten in testimony before the U.S. Congress on May 8, 2003

бюро самостоятельно управлять своими делами. Такой подход откроет двери профессионалам, работающим в кредитных бюро и стратегическим партнерам для того, чтобы начать деятельность как можно раньше. Увеличится доступ к кредиту среди широких масс населения и предприятий малого бизнеса.

Все будут следить за приближающимися дебатами, включая Россию, Украину, а также центральноазиатские республики. Возможно, что развитие казахстанской системы кредитной отчетности будет продемонстрировано на конференции по кредитному бюро в Москве, в ноябре 2003 года и на четвертой всемирной конференции по потребительскому кредитному бюро в Пекине в 2004 году.

¹ Негативные данные обозначают информацию о потребителе, связанную с кредитами, как например, просроченные кредиты, списание безнадежных долгов или банкротство. Позитивные данные обозначают информацию, связанную с кредитами, как например, количество кредитных продуктов, остатки на счетах, виды деятельности по каждому кредитному продукту и кредитные лимиты.

² Полное название законодательного документа «Директива 95/46/ЕК Европейского Парламента и Совета по защите физических лиц в отношении обработки персональной информации, и ее свободного передвижения от октября 1995 года»

³ Оценка Доктора Стэйтона главным образом основана на 20-летнем исследовании, посвященном экономике потребителя и рынкам ипотечного кредитования. Его последние публикации по кредитной отчетности включают: «*Ценность Исчерпывающих Кредитных Отчетов: Уроки опыта США*», Доктор Дж. М. Баррон, Факультет экономики, Университет Purdue, и Доктор Майкл Стэйтон, Центр Кредитного Исследования, Университет Джорджтауна; *Системы кредитной отчетности и международная экономика*, подготовленная к печати Маргарет Миллер, Пресса Муниципального Инвестиционного Треста, весна 2003 года, и «*Финансовая неприкосновенность частной жизни, Процветание Потребителя и Общественные Блага: Сохранение Баланса*» Ф. Гейт, Р. Литан, М. Стэйтон и П. Уаллисон, объединенный центр нормативных исследований маклеров по страхованию дополнительных расходов, Апрель 2003 года.

⁴ Туллио Хяпелли и Марко Пагано «*Распределение информации, предоставление кредитов и дефолты: свидетельства, собранные по всей стране*» (2002), Журнал по банковской деятельности и финансам, Том 26, стр. 2017-2045. Данная работа актуальна с точки зрения воздействия информационных потоков на сектор малого и среднего бизнеса.

⁵ Изучение Тауэр Груп, отчет Доктора Стэйтона, оценка эксперта, представленная Конгрессу США 8 мая 2003 года.