

RESOLUTION OF THE BOARD OF THE NATIONAL BANK
OF THE REPUBLIC OF BELARUS
February 9, 2016, No. 64

On approval of the Instruction on the requirements to content of the rules of conducting transactions in non-deliverable over-the-counter financial instruments approved by forex companies, banks, nonbank financial institutions, the National Forex Center

By virtue of Part four of Clause 3, paragraph five of Clause 17 in Edict of the President of the Republic of Belarus No. 231 dated June 4, 2015 “On Carrying out Activities in the Over-the-counter Forex Market”, Part one of Article 39 in the Banking Code of the Republic of Belarus, the Board of the National Bank of the Republic of Belarus DECIDES:

1. The enclosed Instruction on the requirements to content of the rules of conducting transactions in non-deliverable over-the-counter financial instruments approved by forex companies, banks, nonbank financial institutions, the National Forex Center shall be approved.
2. This Resolution shall come into effect from March 7, 2016.

Chairman of the Board

P. V. Kallaur

APPROVED

Resolution of the Board
of the National Bank
of the Republic of Belarus
February 09, 2016 No. 64

INSTRUCTION

on the requirements to content of the rules of conducting transactions in non-deliverable over-the-counter financial instruments approved by forex companies, banks, nonbank financial institutions, the National Forex Center

**ARTICLE 1
GENERAL PROVISIONS**

1. This Instruction shall establish the requirements to content of the rules of conducting transactions in non-deliverable over-the-counter financial instruments (hereinafter “the Rules”) approved by forex companies, banks, nonbank financial institutions, the National Forex Center.
2. For the purposes of this Instruction:

forex companies shall be deemed legal entities mentioned in paragraph two of Part one of Clause 1 in Edict of the President of the Republic of Belarus No. 231 dated June 4, 2015 “On Carrying out Activities in the Over-the-counter Forex Market” (National Legal Internet Portal of the Republic of Belarus, June 06, 2015, 1/15836);

the customers shall include:

the customers of forex companies, banks, nonbank financial institutions, i.e. natural persons or legal entities who/which have signed an agreement with a forex company, bank, nonbank financial institution on conducting transactions in non-deliverable over-the-counter (OTC) financial instruments;

the customers of the National Forex Center, i.e. forex companies, banks, nonbank financial institutions funneling an aggregate open position of their customers (a sum of open positions of customers) under a separate underlying asset to the National Forex Center.

ARTICLE 2 GENERAL REQUIREMENTS TO CONTENT OF THE RULES

3. The Rules approved by forex companies, banks, nonbank financial institutions, the National Forex Center shall contain the following:
 - 3.1. the list of underlying assets in which respect (for the aggregate of which) a forex company, bank, nonbank financial institution, the National Forex Center conduct transactions in non-deliverable OTC financial instruments (hereinafter “the Transactions”);
 - 3.2. procedure and sources of obtaining, by a forex company, bank, nonbank financial institution, the National Forex Center, of information on quotation (price of underlying assets) and other similar information, as well as the procedure of furnishing the customers with information required for conducting transactions initiated by them;
 - 3.3. type(s) of remuneration to a forex company, bank, nonbank financial institution, the National Forex Center for conducting transactions, and calculation of each type of such remuneration;
 - 3.4. procedure and conditions for the development and maintaining on the web site of a forex company, bank, nonbank financial institution, the National Forex Center in the Internet, of a “personal virtual customer’s account” electronic service (hereinafter “Personal Customer’s Account”) in order to accumulate information on every customer, register customer’s actions within the transactions initiated by the same, and recording information related to such transactions;
 - 3.5. the list of sections of the Personal Customer’s Account;
 - 3.6. content and sequence of actions of:
 - a customer during conducting the transaction initiated by the same;
 - a forex company, bank, nonbank financial institution, the National Forex Center when conducting transactions (with indication of information listed in Sub-clauses 3.1–3.3 of this Clause)
 - depending on the selected section of the Personal Customer’s Account;
 - 3.7. the list of communication facilities used by a forex company, bank, nonbank financial institution, the National Forex Center for receipt, processing and execution of customers’ orders to fix an underlying asset price, and the procedure of storage of information on such orders;
 - 3.8. procedure of signing an agreement on conducting transactions in non-deliverable OTC financial instruments (hereinafter “the Agreement”); the list of documents (copies thereof)

and data submitted upon signing the Agreement and also during the life of the Agreement when there is a need to change its terms and conditions;

- 3.9. procedure and period of notice sent by a forex company, bank, nonbank financial institution, the National Forex Center to a customer to notify of its actions affecting the customer's interests as it pertains to:

change of condition of maintaining and closure of the Personal Customer's Account, its sections, open positions of the customer;

change in the amount of the customer's margin security resulting from conduct of transactions initiated by the customer;

suspension of servicing the customer;

other actions;

- 3.10. events and procedure of annulment by a customer, forex company, bank, nonbank financial institution, the National Forex Center of the order to fix an underlying asset price and/or of a transaction initiated by the customer;

- 3.11. measures to provide:

execution of the customer's order to fix an underlying asset price when conducting the transaction on terms most advantageous for the customer at the time;

stability and continuity of all stages of conducting transactions;

furnishing the customers with necessary information when conducting transactions;

information protection in the course of execution of the Agreement;

- 3.12. hours of operation of a forex company, bank, nonbank financial institution, the National Forex Center, as well as of the Personal Customer's Account;

- 3.13. procedure of voluntary pre-trial settlement of disputes arising from execution of Agreements.

4. The Rules approved by forex companies, banks, nonbank financial institutions, National Forex Center may not establish the rights and duties of the parties to the Agreement and make a part thereof.

ARTICLE 3

REQUIREMENTS TO CONTENT OF THE RULES APPROVED BY FOREX COMPANIES, BANKS, NONBANK FINANCIAL INSTITUTIONS

5. Apart from the requirements to content of the Rules specified in Article 2 of this Instruction, the Rules approved by forex companies, banks, nonbank financial institutions shall provide for the procedure of classifying the customers under one of the following categories:

- 5.1. *a professional customer* – means a customer which is a legal entity meeting one of the following criteria:

a legal entity which is a resident of the Republic of Belarus entered into the register of forex companies and/or has a special permit (license) for banking, professional and exchange activities related to securities or insurance business;

a legal entity which is a nonresident of the Republic of Belarus, has a special permit (license) for activities in the OTC forex market, banking or any other financial activity;

legal entity's proceeds from sale of goods, works, services less taxes and charges calculated on such proceeds for the past fiscal year makes not less than 4 million base values;

legal entity's balance sheet total as of the end of the past fiscal year makes not less than 2 million base values;

legal entity's equity capital as of the end of the past fiscal year makes not less than 200 thousand base values;

5.2. *a qualified customer* – means a customer which/who is a legal entity or natural person meeting one of the following criteria:

a customer has conducted at least ten transactions to the total amount exceeding 10 thousand base values in each of the four past quarters;

the amount of long-term and short-term financial investments of a customer, including monetary funds, exceeds 10 thousand base values as of the first day of the current months;

5.3. *a customer* – means a customer being a legal entity or natural person which/who has signed an Agreement with a certain forex company, bank, nonbank financial institution for the first time ever, and does not correspond to categories stipulated under Sub-clauses 5.1 and 5.2 of this Clause; as well as a customer which/who corresponds to one of categories stipulated under Sub-clauses 5.1 and 5.2 of this Clause but which/who has notified prior to initiation of the transaction of its/his intention to be classified under a category provided for by this Sub-clause.

6. The Rules approved by forex companies, banks, nonbank financial institutions shall specify the list of supporting documents to be submitted by the customers for classifying thereof under one of the categories specified in Sub-clauses 5.1-5.3 of Clause 5 in this Instruction, and frequency of submission of such documents.