

Zholamanova M.T.  
**Restructuring of bank loans**

Being the most important field of activity of the banks, crediting has a significant impact on the economic development. At the same time, bank crediting is exposed to a number of factors determining its dynamics and structure. Systemization of these factors and study of their influence on the credit process plays an important role in improving the efficiency of the crediting process and neutralization of its negative aspects. One method of minimization of credit risks of commercial banks is carrying out of restructuring procedure. In connection with this, the article describes the features of the restructuring of problem loans by the commercial banks.

**Key words:** Restructuring, credit risk, commercial banks, problem loans, collecting companies.

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Жоламанова М.Т.  
**Банк қарыздарын  
қайта құрылымдау**

Несиелендіру банктердің аса маңызды қызмет саласы болып табыла отырып, экономиканың дамуына елеулі ықпал етеді. Сонымен бір мезгілде, банктік несиелендіру оның динамикасы мен құрылымын айқындайтын бірқатар факторлар әсерінің ықпалында болады. Ондай факторларды жүйелендіру және олардың несие процесіне әсерін зерделеу несиелендіру процесінің тиімділігін арттыруда және оның теріс тұстарын бейтараптандыруда маңызды қызмет атқарады. Коммерциялық банктердің несиелік тәуекелдерін барынша азайту тәсілдерінің бірі қайта құрылымдау процедурасын жүргізу болып табылады. Осыған байланысты, мақалада коммерциялық банктердің түйінді қарыздарды қайта құрылымдауды жүргізуінің ерекшеліктері ашып көрсетіледі.

**Түйін сөздер:** қайта құрылымдау, несиелік тәуекел, коммерциялық банктер, түйінді несиелер, коллекторлық компаниялар.

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Жоламанова М.Т.  
**Реструктуризация  
банковских займов**

Являясь важнейшей сферой деятельности банков, кредитование оказывает существенное влияние на развитие экономики. В то же время банковское кредитование подвержено воздействию целого ряда факторов, определяющих его динамику и структуру. Систематизация этих факторов и изучение их воздействия на кредитный процесс играют важную роль в повышении эффективности процесса кредитования и нейтрализации его негативных моментов. Одним из способов минимизации кредитных рисков коммерческих банков является проведение процедуры реструктуризации. В связи с этим в настоящей статье раскрываются особенности проведения реструктуризации проблемных займов коммерческими банками.

**Ключевые слова:** реструктуризация, кредитный риск, коммерческие банки, проблемные ссуды, коллекторские компании.

## **RESTRUCTURING OF BANK LOANS**

Debt restructuring is a measure used in respect of borrowers, who are in default, i.e. not able to detect the debt.

There are some measures of restructuring, which can be used both separately and as a whole:

- measuring of terms and sizes of payment;
- exchange of debt for a stake in ownership;
- writing down of debt.

Restructuring is possible in case of default of various types of debtors.

Firstly, the states. Restructuring of the state debt - the negotiation process. Generally, international financial organizations, such as International Monetary Fund, participate in it. Within international law, the state cannot be declared as a bankrupt, because it has sovereignty, i.e. for example, its intervention for the purpose of further oversell of property is not possible.

In such cases, the international creditor community has a choice: either do not receive anything from the debtor, or agree the terms of debt restructuring. In addition, even before the official default, a situation can be formed in the county accompanied by social fallout, as a result of which the possibility of repayment of a loan in full is even less possible.

Secondly, the credit restructuring of individual borrowers is possible. For the bank, it is possible to avoid lengthy litigation and related costs. In this most lenders are going to write off penalties and fines, but in practice never agree to a reduction of principal. Perhaps this situation will change in the event of bankruptcy law individuals, resulting in the possibility of imposing penalties on the property may be limited.

It is a possibility for the bank to avoid long legal proceedings and related costs. Herewith, most of all credit organizations write down penalties and fines, but in practice they never agree to reduce principal of loan. Perhaps, this situation will change in case of bankruptcy law for individuals as a result of which a possibility of imposing penalties on the property may be restricted.

The restructuring of any debt, both state, corporate and private, have a negative effect on reputation of the borrower. As a result, crediting in the future either becomes completely impossible or is considerably more expensive.

The agreement of restructuring depending on its specific conditions can be classified as a simple change of conditions of the basic loan agreement, as well as innovation, compensation or waiver of debt. In addition, very often the debt restructuring is accompanied by appearance of additional methods of securing obligations. What is the legal classification of the most common conditions of the subject matter of the restructuring agreement?

Increasing of term of credit repayment with interest rate change or without such changes. This condition shall be classified as a simple change of separate provisions of the loan agreement. At the same time such change is not an innovation of obligations that is confirmed by the judicial practice.

Providing instead of the execution of obligations to pay principal of loan and interests of any property. The above condition can be classified both as an innovation and compensation depending on whether the basic obligation of the loan agreement is replaced by a new obligation or not.

Agreeing to restructure a debt, the lender incurs additional risks. Herewith, the main risks are: credit risk; risks of non-execution or improper execution of new obligation; risks of challenge of agreement in the case of debtor bankruptcy; risk of challenge of agreement of restructuring and security agreements on other grounds.

Credit risk. If the creditor agrees to increase the terms of debt repayment it undertakes a new credit risk (i.e. the risk of violation of new terms of credit obligation execution). Herewith, to all practical purposes, this risk shall be assessed as a significant, given that the need for debt restructuring is associated with existing default of the debtor. Credit risk can be minimized using known methods of securing obligations.

The most optimal combination of methods of securing obligations of the debtor is as follows: guarantee of individuals - shareholders of the debtors; the guarantee of other companies of the group of persons of a debtor and pledge of property of guarantors ensuring the proper execution of the obligations of guarantors under the guarantee contracts.

The above combination of methods of securing obligations allows minimizing the risk of recognizing of restructuring agreement invalid in case of carrying out of bankruptcy procedure of debtor, because their realization does not lead to reduction of property of the debtor directly, and, accordingly, the interests of other creditors do not suffer.

It should be noted that the value of the guarantee as a method of securing obligations is not enough high given that the credit risk of the creditor does not

disappear, but arises in respect of other persons. In this connection, the pledge of property of guarantors is a necessary measure allowing minimizing the credit risk.

Disadvantages of loan, from the point of view of the creditor, can include that due to the lack of registration of right of pledge in respect of movable property, it is practically impossible to make sure that as of the date of the pledge contract of such property it is not to be pledged to third parties. In this case, the second and each subsequent pledge holder can count on the satisfaction of their claims from the cost of the pledged property only after satisfaction of the previous pledge holder.

Risk of non-execution or improper execution of a new obligation. In case of innovation of loan obligations to the obligation of the property transfer, the risk of non-execution or improper execution of a new obligation by the debtor can be as follows: delay in the property transfer is possible; failure to transfer the property; transfer of property with deficiencies in quality or range.

Intrinsically new obligations between the parties shall be classified as a purchase and sale of property. Unfortunately, in this case, it is impossible directly to use the same methods to minimize the risk the creditor, which were proposed as applied to the credit risks. This is due to the fact that the guarantee is only effective when it ensures a monetary claim. For the occurrence of monetary claim in the purchase and sale contract it is necessary that the creditor refused the contract and demanded repayment of the debt in full. The problem is that the creditor (purchaser) can refuse to perform the purchase and sale contract and demand payment of the debt amount owed the creditor (purchaser) only in exceptional cases provided by the Civil Code of the Republic of Kazakhstan. What measures can be taken by the creditor to solve this situation? To check quality, quantity and range of property transferred by the debtor prior to the conclusion of the debt restructuring agreement with the involvement of relevant experts; to ensure the transfer of property by the debtor prior to or simultaneously with the conclusion of the debt restructuring agreement; to obtain guarantee obligations of the debtor in relation to the quality of the transferred property (this measure will minimize the risks in case of hidden defects in the property). The guarantee obligations of the debtor can be provided by the guarantees and loan, by analogy with the already proposed methods of minimizing of the credit risks.

The above measures are also applicable in case of transfer of property by the debtor as compensation.

Specified methods of risk minimizing allow the banks to minimize losses in the crediting process and provide an acceptable profitability from this activity. Each specific transaction can have own features requiring the use of other methods of risk minimizing.

Recently, banks actively carry out restructuring of credits trying, therefore, to conceal the real volume of problem debt.

Undoubtedly, sometimes restructuring has improving character. Programs of overcoming the crisis were developed at the companies due to it that improved their financial situation. However, in many cases, having restructured the credit, the banks simply delayed the time of his repayment.

During the work with problem loans the bank can use such basic methods of debt management: rehabilitation or liquidation of the borrower.

The method of rehabilitation is to develop a common plan of measures with the borrower to pay credit.

The method of liquidation means the repayment of credit by bankruptcy proceedings and sale of assets of the borrower.

If the borrower and the bank are sure that financial difficulties are a temporary phenomenon, the banking institutions can offer a rehabilitation of credit debt to the clients. Herewith, banking institutions can agree with the problem client and review the terms and review terms and order of debt repayment. In any case, the issue of rehabilitation of problem debt for each borrower shall be solved individually.

Rehabilitation process consists of some stages:  
collection and preparation of information;  
meeting with borrower;  
development of plan of measures;  
debt restructuring;  
permanent control of plan execution.

Collection of information is based on the study of tax returns, legal actions, documentation regarding the loan security. Specialists of developing of the plans of credit repayments shall as soon as possible

to meet with problems of the borrower and to discuss possible variants of solving. It is necessary to determine during interview whether the borrower is ready to further cooperation with the bank and adoption of principal, sometimes painful decisions, as well as whether there is potential financial and material base for successful introduction. Employees of the bank shall assess the quality, competence and honesty of management of the debtor, visit the company and estimate its property and activities at the site.

Banking institutions during repayment of problem loans shall use the experience of cooperation with collecting institutions. In the domestic banking practice there are two ways of cooperation between banks and collecting companies:

direct sale of debt with discount;  
transfer of information of problem loans to collecting companies.

We considered the main methods of minimizing the credit risk of commercial banks. However, it should be noted that problem loans are an integral part of the banking business. This suggests that the integrated system of work with problem loans shall be created in any credit institution. The relevant subdivisions of the bank shall carry out permanent monitoring of the borrowers, analyze their financial and economic situation, identify signs of problems, and apply measures to prevent damages in case of detection of the problem loan.

The global financial crisis had a strong impact on banks and financial institutions. To survive in crisis, banks need to mobilize all resources, both for the reimbursement of granted credits and for improvement of credit portfolio, including by implementing and running of new effective technologies.

In conclusion, it should be noted that there is no a single scheme of work with problem assets, because each project is individual. Any of the considered instruments can be very effective in any particular case. However, it is safe to say: the problem of debt and «bad» assets will never disappear.

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