Da Afghanistan Bank cancels license of Habib Bank

AFGHANISTAN

By Manezha Sukhanyar

Since the collapse of the Taliban regime in 2001, the financial sector of Afghanistan has expanded rapidly. Besides nine commercial banks and three state-owned banks, three branches of foreign commercial banks including Habib Bank, Alfalah Bank and National Bank of Pakistan operate in Afghanistan. As per a World Bank report, foreign branches hold 9% of the asset share, 1% of the loan portfolio and 8% of the deposit share.

Since the Kabul Bank crisis in 2010, the public has lost trust in the banking sector, trust that has not been fully regained. As such, Da Afghanistan Bank, the central bank of Afghanistan, has taken serious steps to regulate banks and ensure the stability of the banking sector by always encouraging banks to comply with the banking laws of the country.

In April 2019, the central bank of Afghanistan canceled the operating license of Pakistan's Habib Bank due to non-compliance with the banking laws of Afghanistan. Habib Bank is the largest bank in Pakistan which had a branch in Kabul since 2004.

This is the first such case where the central bank has canceled the license of a foreign bank in the country. Acoording to the governor of the central bank, foreign banks receive operating licenses in Afghanistan to promote good banking practices and contribute toward the development of Afghanistan.

Habib Bank was not providing financing to Afghan entrepreneurs, which affected its role in the development of Afghanistan to some extent. Furthermore, it was said that the bank failed to comply with Afghan instructions with regards to changing its capital to the Afghan currency.

Will such an action affect the operations of other banks in Afghanistan or will it encourage other banks to seriously implement the banking laws of the country? Let's wait and see in the coming months the impact of such an action on the overall banking sector of Afghanistan.

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Uncontrolled growth of 'fake' PPPs in Kazakhstan — what to expect?

KAZAKHSTAN

By Shaimerden Chikanayev

Three local level public–private-partnership (PPP) projects are on the brink of collapse due to the relevant local state body of the Mangistau region failing to meet its obligations under the PPP agreements and to pay on time to the respective private partners for constructed and operating kindergartens. It was alleged that the money needed for these PPP projects did not appear on the books of the local government in time, even though the respective PPP agreements, evidently, were duly executed and registered.

More than 192 PPP agreements were signed in Kazakhstan in 2018 alone, but it seems that most of them are 'service'-type PPPs in education (kindergartens) and, apparently, many of them are 'fake' PPPs. It seems that many local (such as city and regional) governments (the so-called 'Akimats') in particular have been abusing the PPPs to bring in sham private investors or as a cover for corrupt procurement practices. This has caused some uncertainty in the PPP market in Kazakhstan lately, which was driven mainly because of the negative perception of how PPPs develop in Kazakhstan.

The government of Kazakhstan is, therefore, expected to come out with changes in policy, legal and institutional frameworks for PPP projects to curb potential debt risks and prevent the misuse of fiscal funds by Akimats.

For instance, the current legislation does not provide clear guidance on what projects may and shall be recognized as PPP projects and what agreements may and shall be classified as PPP agreements, resulting in the rapid increase of the execution of different agreements by Akimats that are called PPP agreements but, strictly speaking, shall not be treated as such and are just imitations of PPPs.

The aforementioned gaps in the law have already led to the misuse of the PPP mechanism by local officials, including for corruption reasons, and this is expected to cause PPP tenders in the near future to be challenged in the courts, the invalidation of transactions and PPP agreements and, as a result, damage to the reputation of PPPs in Kazakhstan.

Moreover, in practice the so-called 'direct negotiations' method of selecting a private partner is quite often open to misuse by the Akimats and affiliated business entities as a loophole that allows awarding without competition.

Finally, there is still confusion in Kazakhstan with regards to understanding who really is acting as a grantor under PPP/concession agreements and against what state assets a private investor and lenders in PPP projects may have legal recourse.

Kazakhstan will surely surmount the aforementioned challenges with greater transparency, but in any case, investors and lenders, including Islamic financial institutions, should expect there to be fewer projects in Kazakhstan with availability payment (such as with compensation from the budget of all investor costs incurred in the project) and more real 'infrastructure' PPPs, instead of 'fake' service-type PPPs.

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