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The Gazette of the Democratic Socialist Republic of Sri Lanka EXTRAORDINARY

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PART I : SECTION (I) — GENERAL Government Notifications

L.D.-B 10/2017 (III)

FOREIGN EXCHANGE ACT, No. 12 OF 2017

REGULATIONS made by the Minister of Finance under Section 29 read with Section 7 of the Foreign Exchange Act, No. 12 of 2017.

MAHINDA RAJAPAKSA,
Minister of Finance.

Colombo,
03rd February, 2021.

Regulations

1. These regulations may be cited as the Foreign Exchange (Classes of Miscellaneous Capital Transactions) Regulations No. 4 of 2021 and shall come into operation with effect from March 22, 2021.

2. The classes of miscellaneous capital transactions specified in the Schedule hereto shall be authorised classes of capital transactions in foreign exchange permitted to be carried out by an authorised dealer or a restricted dealer to the extent specified in section 4 of the Act.



3. In executing miscellaneous capital transactions in foreign exchange under these regulations, every authorised dealer or restricted dealer shall comply with the directions issued in that behalf by the Central Bank, from time to time, under section 9 of the Act.

4. (1) Every authorised dealer or restricted dealer engaged in miscellaneous capital transactions in foreign exchange under these regulations shall ascertain-

- (a) the *bona fide* of the person who carries out the transaction; and
- (b) that such transaction is in compliance with these regulations,

by obtaining documentary evidence in that behalf.

(2) Every person engaged in miscellaneous capital transactions under these regulations shall provide all necessary documentary evidence to such authorised dealer or restricted dealer for the purpose of paragraph (1).

(3) Every authorised dealer or restricted dealer shall exercise all due diligence in executing such miscellaneous capital transactions in foreign exchange under these regulations.

5. The Central Bank may take such action as it may deem necessary under the provisions of the Act, in respect of any authorised dealer, restricted dealer or any other person not being an authorised dealer or a restricted dealer, who fails to comply with these regulations.

6. Every authorised dealer or restricted dealer referred to in regulation 2 and persons engaged in miscellaneous capital transactions under these regulations through such authorised dealer or restricted dealer, shall retain all information and documentary evidence in proof of the fact that miscellaneous capital transactions they engaged in are permitted transactions under these regulations, for a period of six years from the date of such transactions.

7. All existing miscellaneous capital transactions undertaken under any approval (general or special) that had been granted prior to coming into operation of the Act and that are substantially similar to the miscellaneous capital transactions specified in these regulations may be continued subject to the terms and conditions specified for such transactions under such approval unless specifically varied by these regulations or any subsequent regulations.

8. (1) For the purpose of these regulations “designated foreign currency” means-

- (a) United States Dollars (USD);
- (b) Euro;
- (c) Sterling Pound;
- (d) Australian Dollars;
- (e) Singapore Dollars;
- (f) Swedish Kroner;
- (g) Swiss Franc;
- (h) Canadian Dollars;
- (i) Hong Kong Dollars;
- (j) Japanese Yen;
- (k) Danish Kroner;
- (l) Norwegian Kroner;
- (m) Chinese Renminbi; and
- (n) New Zealand Dollars.

(2) The Central Bank may, from time to time amend, alter or make additions to the designated foreign currencies specified in paragraph (1), by the directions issued in that behalf under section 9 of the Act.

9. Regulations made under section 29 read with section 7 of the Foreign Exchange Act, No. 12 of 2017, published in the *Gazette* Extraordinary No. 2145/49 of October 17, 2019 is hereby rescinded, without prejudice to anything done thereunder.

10. For the purpose of these regulations-

“Act” means the Foreign Exchange Act, No. 12 of 2017;

“authorised dealer” shall have the same meaning as in the Foreign Exchange Act, No. 12 of 2017;

“capital transaction” shall have the same meaning as in the Foreign Exchange Act, No. 12 of 2017;

“Central Bank” shall have the same meaning as in the Foreign Exchange Act, No. 12 of 2017;

“current transaction” shall have the same meaning as in the Foreign Exchange Act, No. 12 of 2017;

“immediate family members” means parents, spouse and children;

“Minister” shall have the same meaning as in the Foreign Exchange Act, No. 12 of 2017;

“Monetary Board” shall have the same meaning as in the Foreign Exchange Act, No. 12 of 2017;

“restricted dealer” shall have the same meaning as in the Foreign Exchange Act, No. 12 of 2017;

“state owned enterprise” shall have the same meaning as in the Foreign Exchange (Classes of Capital Transactions Undertaken in Sri Lanka by a Person Resident Outside Sri Lanka) Regulations No. 2 of 2021 published in the *Gazette* Extraordinary No. 2213/35 of February 03, 2021.

(Regulation 2)

SCHEDULE

CLASSES OF MISCELLANEOUS CAPITAL TRANSCATIONS

A. Granting of Loans and Advances in Sri Lanka to Persons resident outside Sri Lanka

Authorised dealers or restricted dealers may grant loans and advances denominated in foreign currency or in Sri Lanka Rupees to the following persons subject to the relevant directions issued by the Central Bank under the provisions of the Act,-

- (1) Sri Lankans who are permanent residents in another country and dual citizens for the purpose of acquisition, construction, development or renovation of a residential property in Sri Lanka.
- (2) Sri Lankans employed outside Sri Lanka for any purpose to be utilised in Sri Lanka and for the purpose of current transactions of the resident immediate family members of such Sri Lankan employed outside Sri Lanka.

B. Borrowings by Sri Lankan Students Pursuing Education outside Sri Lanka

1. Any Sri Lankan citizen who has proceeded outside Sri Lanka for educational purposes is permitted to borrow from banks, financial institutions, universities or educational institutions in foreign countries for the purpose of meeting tuition fees, living expenses and other educational related expenses while undertaking studies abroad and to repay such loans by remitting funds from Sri Lanka.
2. Any authorised dealer or a restricted dealer may make outward remittances to the respective lending institutions being servicing and repayment of loans by parents or guardians in Sri Lanka of such Sri Lankan citizens who have proceeded outside Sri Lanka for educational purpose, after verifying the *bonafide* of the transaction and obtaining necessary documentary evidence.
3. In the event where aforesaid Sri Lankan citizen obtains a permanent residency visa, a temporary residency visa which entitles for the permanent residency in another country or citizenship of another country (including dual citizenship), outward remittances in respect of repayment of loans shall be subject to the eligible migration allowance of such person.

C. Payments related to Financial Derivative Transactions

An authorised dealer or a restricted dealer may make payments in foreign currency for financial derivative transactions in respect of current transactions and capital transactions (*i.e.*, underlying transactions) permitted under the provisions of the Act, after satisfying themselves with the *bona fide* of such underlying transactions and in compliance with the directions issued by the Central Bank.

D. Release of foreign exchange to persons who intends to leave Sri Lanka under temporary resident visas

An authorised dealer or a restricted dealer may issue reasonable amount of foreign exchange to a person resident in Sri Lanka who intends to leave Sri Lanka under temporary resident visa (other than a temporary resident visa that entitles the individual to obtain permanent residency or citizenship in that country at a future date), being basic allowance for the purpose of initial settlement of such persons, in overseas, subject to a maximum of USD 15,000 or its equivalent in other foreign currency, with an appropriate endorsement made on the passport issued by the Controller General of Immigration and Emigration of Sri Lanka or other relevant authority.

E. Repatriation of Export Proceeds to Sri Lanka by Exporters of Goods

1. Every exporter of goods shall repatriate to Sri Lanka, payments received for the exportation of goods within 180 days or such other period that may be specified by the Central Bank from the date of exportation.
2. Every exporter of goods shall submit related documentary evidence on each exportation to the respective authorised dealer or restricted dealer that receives the payment.
3. Central Bank may introduce a mechanism to monitor the compliance with the requirements under this heading by the exporters of goods and may take such action as it may deem necessary under section 11 or section 26 of the Act, as the case may be.

F. Issuing of Financial Guarantees by a person resident in Sri Lanka in favour of a person resident outside Sri Lanka

1. An authorised dealer or a restricted dealer is permitted to issue and renew bank guarantees, bonds or Standby Letters of Credit, as the case may be, in respect of current transactions and capital transactions, subject to the directions issued by the Central Bank under the provisions of the Act.

2. The Government of Sri Lanka is permitted to issue sovereign guarantees to enable the Government of Sri Lanka or state owned enterprises to issue international bonds or to borrow in designated foreign currencies from a person resident outside Sri Lanka.
3. An authorised dealer or a restricted dealer is also permitted to make outward remittances in respect of valid claims arising from the issuance of such bank guarantees, bonds or standby letters of credit, subject to the directions issued by the Central Bank under the provisions of the Act.

G Persons permitted to open, maintain and operate an account with a regulated financial institution outside Sri Lanka

1. Following persons are permitted to open, maintain and operate foreign currency accounts with a regulated financial institution outside Sri Lanka -
 - (a) a person resident in Sri Lanka who has proceeded outside Sri Lanka temporarily for business, education or medical purposes;
 - (b) a person resident in Sri Lanka who has at any time prior to or after this Act coming into effect, been a resident outside Sri Lanka and earned or otherwise acquired foreign exchange outside Sri Lanka not involving the conversion of Sri Lanka Rupees into foreign exchange;
 - (c) an individual, a company or a firm registered in Sri Lanka which provides professional or vocational services outside Sri Lanka and receives payment in foreign exchange for such services from a person resident outside Sri Lanka;
 - (d) an individual, a company or a firm registered in Sri Lanka which has been granted general or special permission under the provisions of the Act, to invest outside Sri Lanka, provided such person is required to open an account outside Sri Lanka as a requirement of the said investment;
 - (e) an exporter of merchandise goods;
 - (f) a person who holds permanent residency in another country;
 - (g) a dual citizen;
 - (h) a person resident in Sri Lanka who intends to proceed outside Sri Lanka for education in a country where such person is required by the visa granting authority to open and maintain an account with a regulated financial institution in such country as a condition to grant visa;
 - (i) a company incorporated in Sri Lanka which is eligible to borrow from an overseas bank or financial institution provided such company is required to open an account outside Sri Lanka as a condition of such loan agreement.
2.
 - (1) Any person specified in paragraph 1 of Heading G of this Schedule, who opened and maintained an account with a regulated financial institution outside Sri Lanka may close such accounts for the purposes of complying with these regulations.
 - (2) An account opened by a person specified in paragraph 1 of Heading G of this Schedule may be credited with foreign currency earned, received or acquired legally outside Sri Lanka or obtained in Sri Lanka in the name of such person from an authorised dealer or a restricted dealer under the provisions of the Act.
 - (3) Funds in the accounts opened by persons specified in paragraph 1 of Heading G of this Schedule may be utilized towards any foreign exchange transactions of the account holder.

- (4) A person who is permitted to open and maintain an account with a financial institution outside Sri Lanka under paragraph 1 of Heading G of this Schedule except for categories specified in subparagraphs (b), (c), (f), (g) and (h) therein shall repatriate to Sri Lanka any balance funds remaining in the accounts opened by such person outside Sri Lanka within one month from the date of fulfillment of purposes for which the account was opened.
- (5) Where a person who is permitted to open and maintain an account outside Sri Lanka under the category specified in subparagraph (h) of paragraph 1 of Heading G of this Schedule, has been refused a student visa by such country or decides not to embark on studies after obtaining the student visa, such person shall repatriate all monies lying to the credit of the account opened by such person outside Sri Lanka under this regulation within one month from the date of such decision.

H. Issuance of life insurance policies to non-nationals resident in or outside Sri Lanka

1. A company registered to carry on insurance business in Sri Lanka under the Regulation of Insurance Industry Act, No. 43 of 2000 is permitted to issue life insurance policies denominated in Sri Lanka Rupees or in foreign currency, as the case may be, in respect of non-nationals resident in or outside Sri Lanka (*i.e.* insured), subject to any written law of Sri Lanka in relation to insurance.
2. An authorised dealer or a restricted dealer is permitted to make outward remittances being payments by a company referred to in paragraph 1 above under this Heading, as benefits (*i.e.* maturity benefits to the insured in the event where such policy holder outlives the term of the insurance policy, death benefits to the beneficiaries upon the demise of the insured or surrender value) in accordance with the respective life insurance policies, subject to any written law of Sri Lanka in relation to insurance.