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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 sections 5, 7 and 8 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 (Opening and Maintenance of Accounts for the purpose of engaging in Foreign Exchange Transactions) Regulations No. 5 of 2021 and shall come into operation with effect from March 22, 2021.



PART I

Authority to Open and Maintain Accounts

2. (1) An authorised dealer or a restricted dealer shall, to the extent specified in section 4 of the Act have the authority to open and maintain foreign exchange accounts or Sri Lanka Rupee accounts specified in regulation 5, in the name of any person for the purpose of dealing in foreign exchange transactions.

(2) An authorised dealer or a restricted dealer shall, when executing transactions under these Regulations, at all times be required to comply with the directions issued in that behalf by the Central Bank, from time to time, under section 9 of the Act.

3. A regulated Financial Institution resident outside Sri Lanka may open and maintain foreign exchange accounts and Sri Lanka Rupee accounts with any authorised dealer in Sri Lanka (Vostro Accounts) for the settlement of transactions .

4. An Authorised dealer may open and maintain foreign exchange accounts with a bank incorporated outside Sri Lanka (Nostro Accounts), in order to facilitate efficient settlement of foreign exchange transactions in other countries by such authorised dealers.

PART II

Types of Accounts

5. Following types of accounts may be opened and maintained by an authorised dealer or a restricted dealer to the extent specified in section 4 of the Act -

- (a) Personal Foreign Currency Accounts (PFCAs)
- (b) Business Foreign Currency Accounts (BFCAs)
- (c) Diplomatic Foreign Currency Accounts (DFCAs)
- (d) Diplomatic Rupee Accounts (DRAs)
- (e) Non-Resident Rupee Accounts (NRRAs)
- (f) Outward Investment Accounts (OIAs)
- (g) Inward Investment Accounts (IIAs)
- (h) Capital Transactions Rupee Accounts (CTRAs)
- (i) Emigrants' Remittable Income Accounts (ERIAs)
- (j) External Commercial Borrowing Accounts (ECBAs)
- (k) Special Foreign Currency Accounts (SFCAs), subject to such credit and debit limits as may be permitted by the directions issued by the Central Bank under the provisions of the Act.

6. In the case of licensed commercial banks, the accounts specified in regulation 5 shall be opened and maintained in their domestic banking units.

7. No person shall open an account specified in regulation 5 where such person is not eligible to open such account as specified in the Schedule to these regulations.

8. (1) The criteria, for opening and maintenance of each type of accounts specified in regulation 5 and permitted debits and credits for such accounts shall be as specified by directions issued by the Central Bank from time to time under section 9 of the Act.

(2) An authorised dealer or a restricted dealer shall exercise due diligence and reasonable care to ascertain that persons seeking to open and maintain accounts specified in regulation 5 are eligible to open and maintain such accounts under the criteria specified in the directions issued from time to time by the Central Bank under section 9 of the Act.

9. (1) Every authorised dealer or restricted dealer engaged in 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 transactions in foreign exchange 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 transactions in foreign exchange under these regulations.

10. 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 restricted dealer, who fails to comply with these regulations.

11. Every authorised dealer, restricted dealer or any person who engages in transactions in foreign exchange under these regulations through such authorised dealer or restricted dealer, shall retain all information and documentary evidence in proof of the fact that such transactions are permitted transactions under these regulations, for a period of six years from the date of such transactions.

PART III

RE-DESIGNATION OF EXISTING ACCOUNTS & C

12. (1) All Non-Resident Rupee Accounts of foreign banks and foreign exchange houses opened under the provisions of the repealed Exchange Control Act shall continue to be operated as Vostro accounts in Sri Lanka Rupees as specified in regulation 3

(2) All existing Resident Guest Scheme-Special Accounts and Senior Foreign Nationals' Special Accounts shall continue to be operated with effect from November 17, 2017, without being re-designated.

(3) All existing Capital Transactions Rupee Accounts maintained by foreign firms and companies registered outside Sri Lanka and Sri Lankans employed abroad who are residing outside Sri Lanka, excluding emigrants, respectively, shall be re-designated and continue to be operated as Non-Resident Rupee Accounts and Sri Lanka Rupee Accounts, respectively.

(4) All existing Foreign Currency Accounts for International Service Providers and their Employees opened by eligible employers and employees resident in Sri Lanka during the period from May 7, 2010 to July 5, 2017 under the provisions of the repealed Exchange Control Act shall be deemed to have been in operation with effect from November 20, 2017 as Business Foreign Currency Accounts and Personal Foreign Currency Accounts, respectively.

(5) All existing Post Tsunami Inward Remittances Accounts of Non-Governmental Organizations operating in Sri Lanka opened under the provisions of the repealed Exchange Control Act, shall continue to be operated as Sri Lanka Rupee Accounts.

13. Sri Lankan nationals resident outside Sri Lanka, excluding emigrants, may open and maintain Current, Savings or Term Deposit accounts in Sri Lanka Rupees with authorised dealers or restricted dealers, only for local transactions including investments in Sri Lanka.

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

- (a) United States Dollars;
- (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.

15. Foreign Exchange (Opening and Maintenance of Accounts for the purpose of engaging in Capital Transactions) Regulations No. 2 of 2017 and Foreign Exchange (Opening and Maintenance of Foreign Exchange Accounts) Regulations No. 3 of 2017, made under the Foreign Exchange Act, No. 12 of 2017, published in *Gazette* Extraordinary No. 2045/56 dated November 17, 2017 are hereby rescinded without prejudice to anything done thereunder:

Provided however, notwithstanding the rescission of the aforesaid Regulations, the Order made under section 22 of the Foreign Exchange Act, No. 12 of 2017, and published in the *Gazette* Extraordinary No. 2182/37 of July 2, 2020 of which the period of validity was extended by the Order published in the *Gazette* Extraordinary No. 2206/25 of December 18, 2020 shall have effect during the period so extended.

16. 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;

“restricted dealer” 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;

“Diplomatic Mission” means an embassy, high commission, consulate, permanent mission of United Nations Organization, European Union delegation of the European Commission, International Monetary Fund, International Bank for Reconstruction and Development, Asian Development Bank or any other similar organization which has been recognized as a diplomatic mission by the Protocol Division of the Ministry of Foreign Affairs (MFA) from time to time;

“Diplomatic personnel” means citizens of a foreign country represented by a Diplomatic Mission;

“emigrant” means an emigrant as specified in the Foreign Exchange (Remittance of Funds by Emigrants) Regulations No. 3 of 2021 published in the *Gazette* Extraordinary No. 2213/36 of February 03, 2021.

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

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

“regulated Financial Institution” means a Financial Institution regulated under any law of a foreign country;

“repealed Exchange Control Act” means the Exchange Control Act (Chapter 423) repealed by Foreign Exchange Act, No. 12 of 2017.

(Regulation 7)

SCHEDULE

PERSONS ELIGIBLE TO OPEN ACCOUNTS

1. PERSONAL FOREIGN CURRENCY ACCOUNTS (PFCAs)

- (1) An individual including a minor who is a Sri Lankan National;
- (2) An individual of Sri Lankan origin including a minor who is a resident outside Sri Lanka;
- (3) A non-national resident in Sri Lanka;
- (4) A non-national either on temporary visit to Sri Lanka or intending to visit Sri Lanka; and
- (5) An administrator or executor of the estate of a deceased person, who maintained a Personal Foreign Currency Account with an authorised dealer or a restricted dealer until the completion of the administration of the deceased person's estate.

2. BUSINESS FOREIGN CURRENCY ACCOUNTS (BFCAs)

- (1) The following persons resident in Sri Lanka who earn foreign exchange from a resident outside Sri Lanka -
 - (a) an individual resident in Sri Lanka;
 - (b) a sole proprietorship or partnership registered in Sri Lanka where the proprietor or majority of partners are residents in Sri Lanka (in case of a partnership with two partners, at least one partner shall be a resident in Sri Lanka);
 - (c) a company incorporated in Sri Lanka;
 - (d) a company incorporated outside Sri Lanka which is registered as an overseas company under the Companies Act No. 7 of 2007;
 - (e) a State Institution with the recommendation of the Secretary to the relevant line Ministry or appropriate Authority;
 - (f) an administrator or executor of the estate of a deceased person, who maintained a Business Foreign Currency Account with an authorised dealer or a restricted dealer, until the completion of the administration of the deceased persons estate; and
 - (g) a receiver or liquidator, of a company that maintained a Business Foreign Currency Account with an authorised dealer or a restricted dealer, until proceedings are concluded.

- (2) A Non-Governmental Organization shall not be permitted to open and maintain a Business Foreign Currency Account.

3. DIPLOMATIC FOREIGN CURRENCY ACCOUNTS (DFCAs)

- (1) Foreign Diplomatic Missions;
- (2) Diplomatic personnel who have been exempted from the requirement of obtaining resident visa issued by the Department of Immigration and Emigration; and
- (3) Family members of Diplomatic personnel in Sri Lanka who have been exempted from the requirement of obtaining resident visa issued by the Department of Immigration and Emigration.

4. DIPLOMATIC RUPEE ACCOUNTS (DRAs)

- (1) Foreign Diplomatic Missions;
- (2) Diplomatic personnel who have been exempted from the requirement of obtaining resident visa issued by the Department of Immigration and Emigration; and
- (3) Family members of Diplomatic personnel in Sri Lanka who have been exempted from the requirement of obtaining resident visa issued by the Department of Immigration and Emigration.

5. NON-RESIDENT RUPEE ACCOUNTS (NRRAs)

- (1) Firms and companies established or incorporated outside Sri Lanka;
- (2) Emigrants; and
- (3) Any other person who may be authorised by the Central Bank from time to time