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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 10/2009

#### **EXCHANGE CONTROL ACT (CHAPTER 423)**

##### **Order under section 17**

BY virtue of the powers vested in me under subsections (1) and (2) of section 17 of the Exchange Control Act (Chapter 423) read with paragraph (2) of Article 44 of the Constitution of the Democratic Socialist Republic of Sri Lanka, I, Mahinda Rajapaksa, President, do by this Order —

(1) grant permission to any person resident in Sri Lanka or any company registered under Companies Act, No.7 of 2007 or any partnership registered in Sri Lanka, to acquire, hold and transfer shares of companies incorporated outside Sri Lanka and the sovereign bonds issued by foreign governments and governmental organizations rated on or above the sovereign credit rating for the time being of Sri Lanka, subject to the directions specified in paragraph (3) below and any other direction issued by me from time to time.

Provided that, the above shall not be applicable in respect of the following :—

- (i) Any company limited by guarantee within the meaning of the Companies Act No.7 of 2007;
- (ii) Any non-governmental organization ;
- (iii) Any person against whom, or any company or partnership against which legal proceedings are pending in respect of a prosecution made against such person, company or partnership under the provisions of Exchange Control Act.

(2) Direct that every person , company or partnership referred to in paragraph (1) above shall —

- (i) make outward remittances for the purposes specified in paragraph (1) above, only out of an Outward Investment Account opened in a licensed commercial bank in accordance with such directions as may be issued by the Controller of Exchange;
- (ii) repatriate within three months from the date of payment, all dividends , capital gains and profits from the sale of shares, liquidation or capital reduction receivable from a foreign company and proceeds of sale and maturity of sovereign bonds, including the capital gains, if any, with the interest earned on such sovereign bonds, credited to the Outward Investment Account through which the initial investment was made;

- (iii) submit a request to an authorized dealer along with a recommendation from a Fellow Member of the Institute of Chartered Accountants of Sri Lanka who possesses a valid certificate to practice at the time of issue of such recommendation;
- (iv) submit with every request referred to in sub paragraph (iii), an affidavit stating that no outward remittance has been effected through any other authorized dealer for the same investment and that no application has been forwarded to obtain foreign exchange allowance for the purpose of migration;
- (v) obtain the prior written approval of the Minister of Finance, prior to making an investment which exceeds the limitations set out in paragraph (3) ;
- (vi) submit the documents and information required by the authorized dealer in accordance with the guidelines issued by the Controller of Exchange to the authorized dealers.

(3) Specify that the following limitations shall operate in respect of any permission granted under paragraph (1) to any person, company or partnership :—

- (i) US dollars Five Hundred Thousand (\$500,000) or an equivalent amount in any designated foreign currency per annum, in respect of a company listed at the Colombo Stock Exchange;
- (ii) US dollars One Hundred Thousand(\$100,000) or an equivalent amount in any designated foreign currency per annum, in respect of a company which is not listed at the Colombo Stock Exchange;
- (iii) US dollars One Hundred Thousand(\$ 100,000 ) or its equivalent amount in any designated foreign currency, in respect of a partnership registered in Sri Lanka, subject to providing a tax clearance certificate by each partner to the authorized dealer to cover the amount to be remitted;
- (iv) US dollars One Hundred Thousand( \$100,000) or its equivalent amount in any designated foreign currency, in respect of any individual resident in Sri Lanka, subject to providing a tax clearance certificate to the authorized dealer to cover the amount to be remitted;
- (v) US dollars One Hundred Thousand (\$100,000) or its equivalent amount in any designated foreign currency per individual employee of a branch in Sri Lanka or subsidiary of a company incorporated outside Sri Lanka, to acquire shares of such company under an Employee Share Option Scheme ;

Provided however, maximum number of shares that can be acquired by all employees of the branch in Sri Lanka or of subsidiary shall not exceed five *percent* (5%) of the value of total shares issued by the company incorporated outside Sri Lanka.

(4) Further states that –

- (i) shares under bonus issue and shares received by capitalization of reserves of companies incorporated outside Sri Lanka, shall also be deemed to have been acquired pursuant to this Order; and
- (ii) nothing contained in this Order shall be construed as affect or having a bearing on enterprises within the meaning of the Board of Investment of Sri Lanka Law, No. 4 of 1978, in relation only to exemptions already granted.

In this Order unless the context otherwise requires :—

“Exchange Control Act” means the Exchange Control Act(Chapter 423);

“foreign currency” shall have the same meaning assigned to that expression under Exchange Control Act (Chapter 423);

“licensed commercial bank” means a company or bank , licensed to carry on the business of a licensed commercial bank in terms of the Banking Act, No. 30 of 1988;

“resident in Sri Lanka” shall have the same meaning assigned to that expression in the Directions published under the Exchange Control Act, in *Gazette* No. 15007 dated April 21, 1972;

“subsidiary” shall have the same meaning as in the Companies Act, No.7 of 2007.

MAHINDA RAJAPAKSA,  
President.

Ministry of Finance and Planning,  
Colombo,  
01st day of January, 2011.

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