

In accordance with Article 88 Item 2 of the Constitution of the Republic of Montenegro I hereby pass the

**ENACTMENT ON PROCLAMATION OF
THE LAW ON FOREIGN CURRENT AND CAPITAL OPERATIONS
("Official Gazette of RoM", No. 45/05 as of 28th July 2005)**

This is a proclamation of the Law on Foreign Current and Capital Operations, adopted by the Parliament of the Republic of Montenegro at the fourth meeting of the first regular session in the year 2005, on 21st July 2005.

Number: 01-763/2
Podgorica, 25th July 2005
President of the Republic of Montenegro
Filip Vujanović, signed

LAW ON FOREIGN CURRENT AND CAPITAL OPERATIONS

I BASIC PROVISIONS

Subject of the Law Article 1

This Law regulates the performance of payment operations between residents and nonresidents in euro and currency other than euro, as well as the manner for transfer of property to the Republic of Montenegro (hereinafter: the Republic) and out of the Republic, and the capacity of residents to have ownership over means of payment denominated in currency other than euro.

General Principle of Freedom of Business Operations in the Foreign Currency Regime of the Republic Article 2

Current and capital operations, including transfers of property from and to the Republic, shall be performed freely, unless otherwise prescribed by law.

Residents and nonresidents are free to have ownership and disposition over means of payment denominated in currency other than euro, and to perform business and payment operations in currency other than euro, in accordance with law.

State authorities' measures shall not be undertaken for discriminatory restrictions of free capital movement and turnover referred to in paragraphs 1 and 2 of this Article.

Definitions

Article 3

In terms of this Law certain expressions have the following meanings:

- 1) Residents are:
 - Business organizations and other legal entities (hereinafter: legal entities) registered in the Republic, with the exception of their representative branches outside of the Republic;
 - Foreign company branches registered with the registry of the competent authority within the Republic;
 - Entrepreneurs – physical persons registered in or with residence in the Republic, conducting an economic activity for its own account for the purpose of gaining profit, and also registered with the competent authority in the Republic
 - Physical persons – citizens of the Republic residing in the Republic for 183 days or more in a given calendar year;
 - Physical persons – foreign citizens, who based on the residence permit or business visa, reside in the Republic for 183 days or more in a given calendar year;
 - Diplomatic, consular and other representative offices of the Republic in foreign countries, employees in these representative offices, and the members of their families who are not citizens of foreign countries.
- 2) Nonresidents are the persons not defined as residents;
- 3) Bank is a legal entity that is founded in the Republic and operates as a bank in accordance with the law regulating establishment and operations of banks;
- 4) Means of payment are cash and payment instruments;
- 5) Foreign means of payment are money and payment instruments other than euro, monetary claims due from and to abroad;
- 6) Payment instruments are payment orders executed by providers of payment operations services, letters of credit, remittances, bills of exchange, promissory notes, payment cards, travelers' and banking cheques and other similar negotiable instruments;
- 7) Negotiable instrument is a transferable, authorized document containing an unconditional promise or order to pay funds to the holder, or to the order of the holder, on demand or at specified time;
- 8) Securities are legal documents obliging their issuers to fulfill liabilities written down in those documents towards¹ their legal holders;

¹ Translator's note: in original document instead of **towards** (ka) there is **as** (kao), most likely due to typing error.

- 9) Domestic securities are securities issued by a resident according to the law regulating securities;
- 10) Foreign securities are securities issued by nonresidents;
- 11) Short-term securities are securities with maturity less than one year from the issuance date;
- 12) Long-term securities are securities with maturity over one year from the issuance date;
- 13) Foreign payment operations are operations performed by banks and other payment services providers to transfer funds between the Republic and abroad;
- 14) Exchange operations are purchase and sale operations in means of payment denominated in various currencies performed by residents;
- 15) Capital operations are transfers of capital between residents and nonresidents and one-side transfers of property for the purpose of transfer of capital other than current transfers. Capital operations shall be:
- direct investments including all investments of residents abroad and nonresidents within the country, which the investor makes for the purpose of establishing permanent economic relations and making significant impact on legal entity management;
 - investments in real-estate including investments of nonresidents in real estate within the country and residents' investments in real estate abroad;
 - operations in securities dealt in on the stock exchange, including transactions in securities in stock exchange, as well as their placing. Securities transactions in stock exchange comprise obtaining domestic or foreign securities in stock exchange by nonresidents and residents. Placing of securities on stock of exchange comprises placing of domestic securities in foreign stock exchange, as well as trading in foreign securities on domestic stock exchange;
 - operations in money market instruments. Transactions in securities on money market include obtaining of securities and instruments from domestic money market by nonresidents, as well as obtaining securities and instruments from foreign money market by residents. Placing of securities and other instruments in the money market includes placing of domestic securities in foreign money market, as well as placing of foreign securities and instruments in domestic money market;
 - operations in units of collective investment schemes;
 - operations in current and deposit accounts with financial institutions which include operations between residents and domestic financial institutions, as well as operations between nonresidents and foreign financial institutions;
 - credit operations or credits for provision of services in which a resident participates include short-term (up to one year), mid-term (up to five years) and long-term (five years and more) credits, as well as credits that nonresidents approve to residents and credits that residents approve to nonresidents;

- financial loans and credits which include short-term, mid-term and long-term loans and credits, loans and credits that nonresidents approve to residents, as well as loans and credits that residents approve to nonresidents;
 - securities, other guarantees and rights of pledge which include securities, other guarantees and rights of pledge which nonresidents approve to residents and securities, other guarantees and rights of pledge which residents approve to nonresidents;
 - transfers of realization of insurance contracts include premiums and all payments in respect of life and credit insurance;
 - personal transfers of means of payment out and to the Republic which include gifts, donations, inheritance, rent, settlement of immigrant' s debt in the mother country and transfer of immigrant' s funds abroad;
 - physical import and export of financial assets which include securities and other means of payment from and to the Republic;
 - other capital movements, which include compensations, allowances for death situations, refunds, copyrights (patents, designs, trade marks and inventions), transfers of funds for provided services;
- 16) Current operations are operations concluded between residents and nonresidents, the purpose of which is not to transfer capital;
- 17) Exchange relations are reciprocal conditions concerning the movement of capital between the Republic and other countries.

II FOREIGN PAYMENT OPERATIONS

Foreign Payment Operations Article 4

Foreign payment operations shall be performed through the Central Bank of Montenegro (hereinafter: the Central Bank), banks and other payment services providers that are issued approval by the Central Bank to perform foreign payment operations.

Deadlines for Execution of Orders in Foreign Payment Operations Article 5

Bank shall be obliged to execute a proper outgoing order for foreign payment immediately and no later than the end of the next business day from the date of receiving the order, if the order issuer has money in the account.

In case where the beneficiary account is stated on the outgoing payment order, and transfer of funds requires no further instruction, bank shall be obliged to credit

beneficiary account with funds received from abroad, no later than the end of the business day after the day of receiving the advice on funds received from abroad.

In case where further instruction is required for transfer of funds, bank shall be obliged to advise the recipient on funds received from abroad the same working day when it receives the advice on receipt of funds from abroad, and to transfer the received funds to the account in accordance with the received instruction, no later than the following business day after the day of receiving the given instruction.

Reporting Obligation of Banks, Other Payment Service Providers and Residents Performing Foreign Payment Operations

Article 6

The Central Bank shall be obliged to develop and submit to the Government of the Republic of Montenegro (hereinafter: the Government) projection of the Balance of Payments of the Republic for the following year in accordance with the schedule for development of Economic Policy, and within the deadline determined by the Government.

The Projection of the Balance of Payments of the Republic is a document adopted annually and comprises foreign current and capital operations between residents and nonresidents, and particularly value and collection of export of goods and services and other non-goods inflow, value and payment of import of goods and services and other non-goods inflow, and foreign financial transactions.

Customer of bank or other foreign payment operations service provider is obliged to notify the bank or other foreign payment operations service provider of the purpose of payment for any payment in foreign payment system exceeding the amount determined by the Central Bank.

Bank or other foreign payment operations service provider is obliged to inform the Central Bank on statistical data related to the purpose specified in paragraph 3 of this Article in the manner stipulated by the Central Bank regulation.

Resident is obliged, at the request of the Central Bank, to provide additional data that are significant for the Balance of Payments of the Republic.

Resident is responsible for accuracy of data from paragraph 5 of this Article.

Supervising Authority

Article 7

Supervision over the foreign payment operations and application of international standards shall be performed by the Central Bank.

III EXCHANGE OPERATIONS

Exchange Operations

Article 8

Exchange operations may be performed by legal entities and entrepreneurs, which have contract with a bank, and are registered for performing exchange operations.

The Central Bank shall prescribe more specific terms and manner of performing exchange operations.

Publication of Exchange Rate List

Article 9

The Central Bank shall accept from the European Central Bank and each working day publish the exchange rate parity of Euro versus other convertible currencies (exchange rate list).

IV Physical Import and Export of Financial Means

Reporting on Physical Import and Export of Financial Means

Article 10

For the purpose of monitoring of the Projection the Balance of Payments of the Republic, and control against money laundering and terrorism financing, resident and non-resident is obliged to declare physical import and export of means of payment at the point of entry or departure to or from the Republic.

The declaration from paragraph 1 of this Article shall be submitted to administration body in charge of customs affairs at a border crossing point.

The administration body from paragraph 2 of this Article shall perform control over physical import and export of means of payment.

The Central Bank shall prescribe the amount of cash which residents or nonresidents may import into the Republic or export from the Republic without declaring it to the body from paragraph 2 of this Article.

Administration body in charge of customs affairs shall keep records on performed controls.

Ministry of Finance shall determine more specific contents of the records from paragraph 5 of this Article.

V PROTECTIVE MEASURES

Short-term Protective Measures

Article 11

The Central Bank may prescribe protective measures, if capital movements seriously jeopardize or threaten to jeopardize monetary policy or financial situation of the Republic.

The protective measures from paragraph 1 of this Article are:

- 1) Restrict payments in respect of current and capital operations;
- 2) Restrict acceptance of securities on the market within the Republic;
- 3) Prohibit taking and giving loans, sureties or guarantees;
- 4) Restrict taking banknotes, payment cards, traveler' s and banking cheques and securities in and out of the country;
- 5) Prescribe conditions under which resident and nonresident may keep it funds needed to perform foreign payment operations with a bank in the country and abroad;
- 6) Restrict purchase and sale of particular foreign currency banknotes.

The Central Bank may introduce the protective measures referred to in paragraph 2 of this Article only with the consent of the Government.

The protective measures referred to in paragraph 2 of this Article shall be applied as long as the disruptions causing them continue to exist, but not longer than six months after being introduced.

Reciprocity in Exchange Relations between the Republic and Other Countries

Article 12

The Central Bank may introduce measures referred to in paragraph 2 of the Article 11 of this Law in the case of absence of reciprocity in current and capital transactions, which could cause disruptions of monetary or financial situation of the Republic.

Prior to the introduction of protective measures from paragraph 1 of this Article, the Central Bank is obliged to establish cooperation with monetary authorities (central bank) of the country with which reciprocity principle has not been set in respect of the current and capital transactions in order to attain an agreement on reciprocity.

The Central Bank may introduce temporary measures from paragraph 1 of this Article until the reciprocity in current and capital transactions is established, with the consent of the Government.

VI PENALTY PROVISIONS

Article 13

A pecuniary fine in the amount of 50 fold to 300 fold of the minimum labor price in the Republic shall be imposed for an offence on legal entity if fails to inform the Central Bank on statistical data from Article 6 paragraph 4 of this Law.

A pecuniary fine in the amount of 10 fold to 20 fold of the minimum labor price in the Republic shall also be imposed on a responsible person in the legal entity for the offence from paragraph 1 of this Article

Article 14

A pecuniary fine in the amount of 50 fold to 100 fold of the minimum labor price in the Republic shall be imposed for an offence on legal entity and entrepreneur if they fail to provide the Central Bank with additional data or provide incorrect data from Article 6 paragraphs 5 and 6 of this Law.

A pecuniary fine in the amount of 10 fold to 20 fold of the minimum labor price in the Republic shall also be imposed on a responsible person in the legal entity for the offence from paragraph 1 of this Article.

A pecuniary fine in the amount of 10 fold to 20 fold of the minimum labor price in the Republic shall be imposed on a physical person for the offence from paragraph 1 of this Article.

Article 15

A pecuniary fine in the amount of 50 fold to 300 fold of the minimum labor price in the Republic shall be imposed on a legal entity and entrepreneur who do not declare physical import or export of means of payment from Article 10 paragraph 1 of this Law.

A pecuniary fine in the amount of 10 fold to 20 fold of the minimum labor price in the Republic shall be imposed on a responsible person in the legal entity for the offence from paragraph 1 of this Article.

A pecuniary fine in the amount of 10 fold to 20 fold of the minimum labor price in the Republic shall be imposed on a physical person for the offence from paragraph 1 of this Article.

VII TRANSITIONAL AND FINAL PROVISIONS

Deadline for Adoption of Secondary Regulations

Article 16

Detailed regulations for implementation of this Law shall be adopted no later than 90 days from the date this Law comes into effect.

Coming into Effect of this Law

Article 17

This Law shall come into effect on the eighth day after its publishing in the Official Gazette of the Republic of Montenegro.