

Pursuant to Article IV.B.7 (a)(IV) of the Constitution of the Federation of Bosnia and Herzegovina, I enact

**A DECREE
PROMULGATING THE
LAW ON FOREIGN EXCHANGE OPERATIONS**

The Law on Foreign Exchange Operations, adopted by the Parliament of the Federation of Bosnia and Herzegovina, at the session of the House of Representatives held on 14 July 2010, and at the session of the House of Peoples held on 29 July 2010 is promulgated.

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President
Borjana Krišto

LAW ON FOREIGN EXCHANGE OPERATIONS

I – General provisions

Article 1

(1) This Law governs:

- a) transactions between residents and non-residents in foreign means of payment and in convertible marks;
- b) transactions between residents in foreign means of payment;
- c) unilateral transfers of assets from and into the Federation of Bosnia and Herzegovina (hereafter: the Federation) that cannot be considered transactions executed between residents and non-residents;

Transactions under paragraph 1 above shall imply current and capital transactions and their execution by payments, collection or transfers.

Article 2

Definitions and terms that are used in this Law shall have the following meanings:

1. Residents are:

- legal persons with the head office in Bosnia and Herzegovina, except their representative offices located outside Bosnia and Herzegovina,
- representative offices, branches and other organizational forms of foreign companies entered in the register kept by competent authorities in Bosnia and Herzegovina,

- entrepreneurs (self-employed craftsmen and traders) who perform an economic activity for the purpose of earning an income and are registered with the competent authority (hereafter: entrepreneurs),
- natural persons with a domicile in Bosnia and Herzegovina, except natural persons who stay abroad for more than one year.
- natural persons – foreigners residing in Bosnia and Herzegovina on the basis of a permanent residence permit or work permit for more than 183 days except diplomatic and consular officers, including their family members,
- diplomatic, consular and other representative offices of Bosnia and Herzegovina abroad financed from the Budget of Bosnia and Herzegovina, citizens employed in those representative offices, including their family members.

2. Non-residents are:

All other persons not stated in paragraph 1 of this Article shall be deemed non-residents.

3. Bank is a legal person established and operated in accordance with the Law on Banks, which is licensed by the Banking Agency of the Federation of Bosnia and Herzegovina (hereafter: the Agency), and the Development Bank of the Federation of Bosnia and Herzegovina.

4. The Central Bank of Bosnia and Herzegovina (hereafter: the Central Bank) is a legal person that does business pursuant to the Law on Central Bank of Bosnia and Herzegovina and performs activities that are within its competence.

5. Foreign Means of Payment are: foreign exchange, foreign currency cash, cheques and other monetary instruments denominated and payable in foreign currency. Foreign exchange is monetary claims from abroad denominated in foreign currency. Foreign currency cash (banknotes and coins) is monetary claims on the central bank or government of the country of issue. Cheques and other monetary instruments denominated and payable in foreign currency are monetary claims on their issuers.

6. Securities are securities defined in accordance with the law governing the securities market. Domestic securities are securities issued by a resident and depository bills issued abroad on the basis of the underlying domestic security. Securities not referred to in paragraph (2) above are foreign securities.

7. The foreign exchange market shall include all purchase and sale transactions of foreign exchange and foreign currencies.

8. Foreign currency exchange is purchase and sale transactions of effective foreign currency/foreign currency cash and cheques denominated in foreign currencies with natural persons.

9. Current transactions are transactions concluded between residents and non-residents for a purpose other than transfer of capital.

10. Payments and transfers arising from current transactions shall include, without any restrictions:

- all payments due in connection with trade in foreign goods and services and other current businesses abroad,

- payments due as interest on loans and as net income from other investments;

- payments of a due portion of principal, withdrawal of direct investments and transfer of profit based on direct investments;

- transfers to natural persons in connection with remittances from workers abroad, pensions, disability allowances and other social benefits, transfers based on taxes, fees, interstate cooperation, settlement of insurance claims and lottery gains, payment of final and binding court awards, compensations for concessions, membership fees and fines (penalties) and reasonable remittances for maintenance and support of family.

11. Capital transactions are transactions concluded between residents and non-residents, which are not international current transactions.

Capital transactions under paragraph 1 above shall include:

- direct investments;

- investments in real estate;

- securities transactions;

- transactions with shares of investment funds;

- credit transactions;

- deposit transactions;

- transactions related to insurance contracts in accordance with the legislation governing insurance;

- unilateral transfers of property that may be personal and physical.

12. Direct investments shall include all investments made by residents abroad and all investments in the Federation made by non-residents, with a purpose of establishing a permanent economic relationship and gaining considerable control over the managing of a legal person in accordance with the foreign investment legislation and the foreign trade transactions legislation. Establishing a permanent economic relationship and gaining considerable control over the managing of a legal person shall mean:

- the establishment of or an increase in the registered capital of a company fully owned by the investor, the establishment of a branch office or acquisition of an already existing company into full ownership of an investor or investment for the purpose of performing the activities of an entrepreneur;

b) investment into a new or an existing company, provided that the investor thereby acquires a total of 10% or more stake in the registered capital of a company, or more than 10% voting rights, following the fulfilment of conditions under paragraph 1 above;

c) loans with a maturity of five years or more, granted for the purpose of establishing a permanent economic relationship, provided that such loans can be classified as subordinate claims (subordinate credits).

13. Investments in real estate are payments with a view to acquiring ownership of real estate abroad by residents and non-residents in the Federation.

14. Securities transactions shall include transactions in the capital market and the money market and transactions with investment funds that are not transactions in terms of direct investments. Securities traded in the capital market shall include shares, bonds and other debt securities issued in series, with maturity up to one year. Securities traded in the money market shall include securities issued in series, with maturity up to one year, such as treasury bills, commercial bills and certificates of deposit and banker's acceptances.

15. Credit transactions (credits and loans) shall include legal transactions between residents and non-residents concluded in foreign exchange in accordance with the law. Credit transactions shall include commercial and financial loans and they shall also include sureties and guarantees and they are:

- commercial loans shall include deferred payments, or advance payments for goods and services or bank funding for deferred and advance payments. Commercial loans shall also include transactions involving purchases of receivables (factoring and forfeiting), provided that the underlying transaction from which the claims arise can be characterized as a commercial loan.

- Financial loans for deferred and advance payments by a debtor under this point for the funding of goods and services trade with foreign countries, i.e. settlement of liabilities on behalf of the debtor directly to the supplier of goods/provider of services in foreign trade,

- financial loans shall include all loans except loans under paragraph 12, sub-paragraph 3 above. All types of financing with underlying commercial transactions (trade in commodities and provision of services), where a resident is not a contracting party, shall be deemed financial loans. Financial loans shall not include sureties and guarantees.

- loans shall be transactions between a resident and non-resident, where a resident takes a loan from or gives a loan to a non-resident in accordance with provisions of this Law and the law governing obligations (contracts and torts).

- guaranties shall be considered banker's guaranties given by banks on behalf of non-residents in international credit transactions and credit transactions between two non-residents abroad.

- sureties shall be considered sureties and other means of security which, in accordance with this Law, resident legal persons give on behalf of non-resident supplier of loan, in international credit transactions and credit transactions between two non-residents abroad.

16. Deposit transactions shall include transactions based on deposit agreements concluded between non-residents and a bank and between residents and a non-resident financial institution. For the purpose of this Law, deposit transactions shall also include agreements on current or other accounts in accordance with the law governing obligations (contracts and torts) and the payment system legislation.

17. Transactions based on insurance contracts are payments including premium payments and payments of insured amounts on the basis of insurance contracts between a non-resident insurance company and a resident as a beneficiary or a resident insurance company and a non-resident as a beneficiary in accordance with the law governing the insurance market.

18. Unilateral transfers shall include transfers of assets from the Federation abroad or from abroad to the Federation which cannot be characterized as transactions executed between residents and non-residents. Unilateral transfers may be personal and physical transfers as follows:

- Personal transfers of assets shall include transfers of assets from the Federation and into the Federation on the basis of gifts and grants, fixed income, inheritance, settlement of immigrants' debts in the country of origin, transfer of immigrants' assets abroad and income of non-residents employed in Bosnia and Herzegovina.

- Physical transfers shall include any transfer of cash in BAM, foreign currency cash, cheques and materialized securities from and into the Federation.

II - Payments, Collection and Transfers

Article 3

Residents and non-residents shall make payments abroad in foreign exchange unless otherwise provided by this law.

As an exception to paragraph 1 above, the Government of the Federation of Bosnia and Herzegovina (hereafter: the Federation Government) may prescribe conditions under which residents and non-residents may make payments abroad in foreign currency cash.

Article 4

Payments, collection, transfers and repayment and between residents and non-residents and between non-residents in the Federation shall be carried on in domestic currency.

As an exception to paragraph 1 above, payments, collection, transfers and repayment may be carried on in foreign exchange and foreign currency cash on the grounds of:

- a) a foreign currency loan granted in the Federation in accordance with this Law,
- b) repayment of foreign currency loan in the Federation,
- c) payments of premiums and insurance claims on the basis of contracts concluded with non-residents and residents involved in investment construction or performing economic activities abroad,

- d) sale and purchase of goods from consignment warehouses, in free zones and duty free shops,
- e) sale and purchase of securities denominated in foreign currency,
- f) payment of foreign currency cash from foreign currency savings deposit books and foreign exchange accounts and transfer of foreign currency cash from one foreign currency savings deposit book to another or from one foreign exchange account to another foreign exchange account of the same holder,
- g) sale and purchase, i.e. payments and collection of claims and debts incurred in foreign trade activities of resident legal persons and entrepreneurs under Articles 7(3) and 24 above.
- h) payment of deposit as a surety.

Resident legal persons and entrepreneurs shall deposit foreign currency cash collected in accordance with this Law in their foreign exchange accounts with a bank, not later than the next business day.

The Federation Government may prescribe other grounds on which payments, collection and transfers in foreign exchange and foreign currency cash can be carried on in the Federation.

Article 5

Contracting in foreign exchange shall be allowed in the Federation while payment and collection shall be carried on in convertible marks.

Article 6

Payments, collection and transfers based on current and capital transactions between residents and non-residents shall be unrestricted in accordance with this Law.

Article 7

Payments, collection and transfers based on current and capital transactions between residents and non-residents shall be carried out by banks in accordance with this Law.

No bank shall process a payment order, i.e. perform an international transfer if such a payment or transfer is not in accordance with this Law.

The Federation Government shall prescribe conditions for payments, collection and transfers based on current and capital transactions between residents and non-residents to be made by offsetting, assignment of claims, assumption of debt and other types.

Payment cards may not be used for payment based on capital transactions.

No resident legal person or entrepreneur shall pay or issue orders for international payments to non-residents on the basis of fictitious contracts or other fictitious documents, or conclude contracts not stipulating the actual values.

The Federation Ministry of Finance of the Republika Srpska (hereafter: the Ministry) shall prescribe conditions and procedures for payments, collection and transfers based on current and capital transactions in means of payment.

Article 8

The bank having received a payment order (hereafter: the recipient bank) shall execute a valid payment order pursuant to the law governing payment transactions only if there are sufficient funds in the account of the issuer of the order.

The recipient bank shall execute a valid payment order which:

- a) is duly filled in and authorized or authentic.
- b) duly identifies recipient bank and
- c) identifies the recipient with some degree of certainty.

The recipient bank shall execute instructions contained in the payment order at the banking date when the payment order is received or on the second value date, if any, depending whichever comes later.

The recipient bank shall provide the following information to the order issuer:

- a) the conditions under which the payment order is executed,
- b) the period of time the execution will take from the moment of issue of payment order until the beneficiary's receipt,
- c) the manner of computation of commission and other costs, if any, and
- d) the applied exchange rate.

Upon the execution of a payment order the bank shall provide the following information to the payment beneficiary:

- a) the execution of payment
- b) the original amount that was paid,
- c) the amount of costs and commission the sender is charged with and
- d) value date.

The bank shall credit the beneficiary's account with funds received from abroad no later than the end of the next business day from the date of execution of the transfer.

Article 9

A resident who earned foreign exchange abroad and a resident who transferred foreign exchange abroad and did not spend the foreign exchange abroad shall bring the foreign exchange into the Federation in accordance with this Law.

Article 10

Resident legal persons and entrepreneurs shall collect and bring into the Federation means of payment with regard to export of goods or provision of services abroad within 6 months following the export goods clearance/the execution of the service.

The export of goods or provision of services within a contractual deadline that may not be longer than 6 months following the execution of the service and/or the export goods clearance and the export of goods or provision of services that are not paid within the deadline under paragraph 1 above shall be deemed a foreign credit transaction.

A resident shall bring into the Federation any means of payment realized on the sale of goods located abroad and directly delivered abroad, within six months from the date of payment.

The Minister of Finance shall prescribe recording procedures for the transactions under paragraph 2 above.

Collection based on the export of goods or services performed as an economic activity in free customs zones shall be carried on in accordance with laws respecting this activity.

Article 11

The profit made abroad from the performance of investment construction, as well as foreign exchange kept by the other contracting party as a guarantee of the correctness of performed investment construction, in line with the guarantee deadlines, and all other funds remaining in the account shall be brought into the Federation by the resident legal person within 8 days after the completion of investment construction, and/or expiry of the guarantee deadline.

Article 12

Resident legal persons and entrepreneurs shall bring into the Federation the profit made abroad from the performance of economic activity abroad that is not used for purposes defined in the foreign trade laws within 8 days after entering the profit in account books.

Article 13

The date of collection shall be considered:

- a) the date when the foreign exchange was paid into an account with the bank,

b) the date when customs clearance was completed or/and a service which was the subject of the export was provided.

If resident legal persons and entrepreneurs are allowed to keep foreign exchange in an account abroad the date of collection shall be considered the date when the foreign exchange was credited in the name of the resident into the account abroad.

Article 14

If a resident legal person or entrepreneur pays goods and services in advance, it shall import the goods and receive the service paid in advance in the Federation within the six months from the date of payment.

If a resident fails to import goods and services paid in advance abroad within the deadline under paragraph 1 above, the resident shall refund the amount paid in advance within eight days of the expiry of the deadline under paragraph 1 above.

The import of goods or provision of services paid in advance with 6 months following the payment shall be deemed a foreign credit transaction.

The Minister of Finance shall prescribe recording procedures for the transactions under paragraph 3 above.

Collection based on the import of goods or services performed as an economic activity in free customs zones shall be carried on in accordance with laws respecting this activity.

Article 15

Residents may freely make payments and transfers of capital based on acquisition, sale and liquidation of direct investments abroad without any restrictions only if the transaction is registered and carried out in accordance with the foreign trade transactions law.

Non-residents may make payments and transfers of capital based on acquisition, sale and liquidation of direct investments in the Federation, only if the transaction is registered and carried on in accordance with the valid foreign trade transactions law.

Article 16

A non-resident may freely transfer abroad the profit made through direct investment provided that all tax liabilities and all liabilities arising from taxes and contributions have been settled in the Federation.

A transfer abroad of remaining liquidation or bankruptcy estate shall be free provided that all tax liabilities and all liabilities arising from taxes and contributions have been settled in the Federation.

Settlement of tax liabilities shall be proved with a certificate of tax and contribution payment issued by the Tax Administration of the Federation of Bosnia and Herzegovina and a certificate issued by the Indirect Taxation Authority of Bosnia and Herzegovina.

Article 17

A residents may effect payments in order to acquire ownership over real estate abroad provided that liabilities arising from taxes and contributions have been settled, producing to the bank a document under Article 16(3) above, unless otherwise provided by law or international agreement.

A non-resident may effect payments in order to acquire ownership over real estate in the Federation, unless otherwise provided by law or international agreement.

Article 18

Resident legal persons may effect payments in order to purchase foreign securities in foreign and domestic capital markets only if the purchase is carried on through authorized participants in the securities market in the Federation or through a foreign participant in the foreign securities market, in accordance with the securities regulations, international agreements and other specific regulations.

Resident natural persons may effect payments in order to purchase foreign securities in foreign and domestic capital markets only if the purchase is carried on through authorized participants in the securities market in the RS, in accordance with the securities regulations, international agreements and other specific regulations.

Non-residents may effect payments in order to purchase domestic securities only if the purchase is carried on through authorized participants in the securities market in the Federation, in accordance with the securities regulations, international agreements and other specific regulations.

Article 19

Residents may effect payments in order to purchase foreign short-term securities in foreign and domestic capital markets only if the purchase is carried on through authorized participants in the securities market in the RS, in accordance with the valid regulations.

Non-residents may effect payments in order to purchase domestic short-term securities, in accordance with the short-term securities regulations and other valid regulations.

Article 20

Investment in foreign investment funds may be carried on in accordance with the regulations governing securities transactions in the capital market.

Article 21

Payments and collection in credit transactions are unrestricted if they are concluded in accordance with the law.

A bank may not grant a loan in foreign exchange to a resident except a resident legal person or entrepreneur to pay for imported goods and services.

A foreign exchange loan in the Federation may be repaid in foreign exchange.

It is prohibited for resident legal persons and entrepreneurs to grant each other foreign exchange loans.

A resident shall use funds from financial loans granted abroad through a bank or an account opened abroad in accordance with Article 30(4) of this Law.

As an exception to paragraph 5 above, financial loans from abroad shall be used through a bank abroad if the loan agreement stipulated the payment of goods and services directly to the supplier or if the loan is to repay an earlier loan contracted abroad (refinancing).

When approving the loan and issuing guarantees and sureties for the benefit of non-residents, residents shall contract with and acquire from the non-residents surety instruments safeguarding security of the credit transaction, guarantees issued and sureties given.

Granting of financial loans to non-residents with a maturity of less than one year is prohibited, except loans by banks and loans granted by residents to establish permanent economic relations.

It is prohibited for residents and non-residents to grant each other domestic currency loans.

Article 22

Credit transactions and loans granted to establish permanent economic relations under Article 2(12)(3) shall be contracted in written.

Banks may enter into foreign credit transactions in their own name and for their own account, in their own name and for client's account and in client's name and for client's account.

Residents other than banks may enter into foreign credit transactions only in their own name and for their own account.

Article 23

Responsibility for performance of contractual duties in a foreign credit transaction shall lie with a resident who enters in the contract, a resident by whose authorisation and on whose behalf the contract was concluded and a bank and a resident - legal entity who buys the receivables from the resident/takes over the debt owed to non-resident arising on the basis of foreign credit transaction.

The Federation shall not be a guarantor for the performance of duties in any foreign credit transaction, unless a guarantee was issued in accordance with the Law on Debts, Borrowing and Guarantees of the Federation of Bosnia and Herzegovina.

Any contract on a foreign credit transaction shall be void if concluded in violation of paragraph 2 above.

Article 24

A bank, as well as a resident legal person, may purchase from a resident receivables arising from loans granted to non-residents, as well as the debt of a resident owed to non-residents arising from foreign credit transactions.

Any transaction under paragraph 1 above may be carried on only on the basis of a contract concluded in writing between all participants in the transaction.

Non-residents may buy receivables and debts arising from foreign credit transactions from residents only under conditions and in the manner prescribed by the Federation Government.

Article 25

Residents are required to report to the Ministry of Finance on credit transactions under this Law.

For reporting purposes the Ministry may determine that credit transactions shall include other types of transactions between residents and non-residents, which are equal to credit transactions in terms of intended business purpose.

The Minister of Finance shall prescribe the conditions, manner, timing and patterns of reporting on foreign credit transactions.

Article 26

A resident may pay premiums of life insurance to an insurance company that is not registered in Bosnia and Herzegovina, provided that such a contract is allowed under the insurance legislation of Bosnia and Herzegovina.

Article 27

A resident insurance company shall collect insurance premiums from residents in convertible marks and from non-residents in foreign exchange, foreign currency cash and convertible marks.

Any company under paragraph 1 above shall pay insurance claims to residents in convertible marks and to non-residents in foreign exchange, foreign currency cash and convertible marks.

As an exception to paragraphs 1 and 2 above, a resident insurance company may collect insurance premiums from and pay insurance claims to residents in foreign exchange based on the performance of investment construction or other activities abroad.

In buying on credit abroad, collection of premiums and payment of insurance claims in foreign exchange to a non-resident may be stipulated in the contract.

Article 28

Personal and physical transfers of foreign means of payment and domestic currency shall be carried on in accordance with this Law.

The Federation Government shall prescribe conditions and procedures for personal and physical transfers of foreign means of payment and domestic currency.

Article 29

A bank may not keep foreign exchange in accounts with non-residents, except with foreign banks.

A bank may not keep foreign exchange with another resident in the Federation, except with another bank or the Central Bank.

Article 30

Resident legal persons and entrepreneurs shall keep foreign exchange in their foreign exchange accounts with a bank or sell it to the bank.

Residents may have foreign exchange accounts with banks abroad for carrying on current and capital transactions in accordance with this Law.

Resident natural persons may keep foreign exchange in their foreign exchange accounts with a bank and dispose of funds kept in the accounts without restrictions and withdraw foreign currency cash.

The Federation Government shall prescribe conditions and procedures for opening foreign exchange accounts abroad.

Article 31

Non-residents may open foreign exchange and convertible marks accounts with banks.

Non-residents may keep foreign exchange earned in accordance with this Law in their foreign exchange account with a bank or sell it to the bank.

Non-residents may not keep convertible marks not earned by collection based on current and capital transactions provided for in this Law in bank accounts with a bank.

Non-residents may not purchase foreign exchange from a bank to the extent larger than the counter value of domestic currency earned in accordance with this Law.

Article 32

A non-resident may transfer funds abroad after having produced a certificate of settlement of all customs duties and tax liabilities.

Article 33

Any bank opening a foreign exchange account, domestic currency account or foreign exchange savings account shall establish the identity of the resident and non-resident and act in accordance with the Law Against Money Laundering and Terrorist Financing.

Any bank is obliged to ensure confidentiality of information from foreign exchange accounts and keep them confidential in accordance with the law.

Article 34

The Ministry may prescribe conditions and procedures for opening bank accounts of residents and non-residents.

III - Foreign Exchange Market and the Exchange Rate of Convertible Mark

Article 35

For the purpose of this Law, the foreign exchange market shall comprise all purchase and sale transactions in foreign exchange and foreign currency cash performed in the banking system within Bosnia and Herzegovina directly:

- a) between banks and residents, as well as between banks and non-residents,
- b) among banks,
- c) between banks and residents authorized to perform currency exchange operations.

Purchase and sale of foreign exchange and foreign cash outside the foreign exchange market is prohibited.

Article 36

In the foreign exchange market, banks shall purchase and sale foreign exchange and foreign currency cash in their own name and for their own account, in their own name and for the account of residents and non-residents, and in the name and for the account of residents and non-residents.

Banks may purchase and sale foreign exchange and foreign currency cash in the foreign exchange markets abroad.

Article 37

Participants in the foreign exchange market may purchase and sell foreign exchange through spot and forward transactions.

Spot foreign exchange purchase and sale transactions in foreign exchange and foreign currency cash shall mean any purchase or sale transaction with an immediate maturity or maturity of less than two working days.

Forward foreign exchange purchase and sale transactions in foreign exchange and foreign currency cash shall mean any purchase or sale transaction with a maturity of more than two working days from the date of contract.

Article 38

Currency exchange operations may be carried on by banks and any resident legal persons or entrepreneurs having a contract with a bank, authorized by the Ministry and registered to perform currency exchange operations (hereafter: the exchange office).

A bank shall perform currency exchange operations in its own name and for its own account, while other resident legal persons and entrepreneurs shall perform currency exchange operations in their own name and for a bank's account.

Other resident legal persons and entrepreneurs shall perform currency exchange operations under contract for carrying out currency exchange operations entered into with a bank for a fixed period of up to one year.

A request for authorization to perform currency exchange transactions shall be filed to the Ministry through the bank by residents under paragraph 3 above.

The Federation Government shall prescribe conditions and procedures for exchange operations and conditions for giving authorization.

Article 39

With the request for authorization under Article 38(4) above, the residents under Article 38(3) shall submit to the Ministry the following:

- 1) a contract for currency exchange operations, concluded between the bank and other resident legal person or entrepreneur;
- 2) for the legal person, the decision from the court register, and for the entrepreneur, the decision of the competent authority showing that he is a legal person, i.e. entrepreneur is registered for currency exchange operations;
- 3) a decision of the competent authority on meeting the minimum technical requirements to operate in accordance with valid regulations.

Article 40

The Ministry shall refuse to issue authorization to perform currency exchange operations if it determines that the resident legal person or entrepreneur does not meet the requirements for currency exchange operations.

The Ministry shall revoke the authorization to perform currency exchange operations if:

- a) resident legal person or entrepreneur does not start with the performance of exchange operations within 90 days from the date of authorization;
- b) the authorization was obtained based on false documentation/false data presented;
- c) After issuing the authorization, circumstances / reasons occur, due to which the resident legal person or entrepreneur no longer meets the requirements over which the authorization was given.

Article 41

The domestic currency shall be a convertible mark (BAM).

The official exchange rate of convertible mark shall be determined by the Central Bank pursuant to the Law on Central Bank of Bosnia and Herzegovina.

Purchase and sale of convertible marks in euros shall be performed at the exchange rate and conditions determined pursuant to the Law on Central Bank of Bosnia and Herzegovina, while the exchange rate of other foreign currencies against the convertible mark shall be freely determined on the basis of supply and demand in the foreign exchange market, unless otherwise determined by the Central Bank.

Banks shall post publicly and publish the exchange rates used to purchase and sell foreign exchange and foreign currency cash.

IV Physical Transfers of Means of Payment

Article 42

Taking foreign currency cash, payment cards and cheques denominated in foreign currency into the Federation shall be without restrictions with mandatory reporting them as provided in Article 45 below.

Taking payment cards abroad shall be without restrictions.

Article 43

The Federation Government shall prescribe the amount of convertible marks that resident and non-resident natural persons may take into and out of the Federation and the conditions under which a bank may take convertible marks out of the Federation.

Article 44

The Federation Government shall prescribe the amount of foreign currency cash and cheques denominated in foreign currency that resident and non-resident natural persons may take out of the Federation and conditions under which banks may take foreign currency cash and cheques out of the Federation.

The Federation Government shall prescribe conditions under which a non-resident may take abroad foreign currency cash and cheques acquired by law.

Article 45

Residents and non-residents shall be obliged, when crossing the state border, to declare to the customs officer any amount of foreign currency cash, convertible marks and securities that is being taken into or out of the country in excess of the amounts determined by the Federation Government.

The obligation under paragraph 1 above shall also apply to any representative, responsible person or proxy, taking into or out of the country foreign currency cash, convertible marks or securities on behalf of any legal person or entrepreneur.

Article 46

Foreign currency cash, cheques, securities and convertible marks impounded by supervisory authorities having issued a receipt and instituted proceedings over founded suspicion that a criminal offence or misdemeanour has been committed shall be deposited by the supervisory authorities, until the case has been closed, in the special-purpose account of the Ministry or in the vault of a bank within two working days following the day of impounding.

V – Reporting

Article 47

Banks and currency exchange offices shall report to the Agency and residents and non-residents shall report to the competent authorities on foreign currency operations under this Law.

The competent authorities under Article 48 below shall determine, within their competence, the content, procedures and deadlines for reporting on foreign currency operations under this Law by bank currency exchanges, other residents and non-residents.

The entities covered by the reporting obligation under paragraph 1 above shall allow without delay the Agency or other competent governmental authority to examine their account books and make other necessary documentation available.

VI – Foreign exchange supervision

Article 48

Supervision over foreign exchange operations in accordance with this Law and by-laws enacted in accordance with this Law shall be conducted by the Agency, the Ministry of Finance – Foreign Exchange Department of the Financial Police of the Federation of Bosnia and Herzegovina (hereafter: the Financial Police Foreign Exchange Department) and Customs authorities, each within their respective competences.

Article 49

The supervisory bodies shall exchange the information they need in the supervision and inform about irregularities established if these findings are relevant to the work of other supervisory bodies.

Submitting data on supervised person required in the procedures of supervision is not considered as revealing official secrets.

The supervisory bodies shall regulate the content and method of informing each other about the information exchange by memorandum of understanding and other documents.

Article 50

The Agency shall supervise operations of banks and exchange offices.

Article 51

The Financial Police Foreign Exchange Department shall supervise the enforcement of this Law and operations by residents and non-residents performing business or other activities in the territory of the Federation.

The residents and non-residents under paragraph 1 above shall allow a foreign exchange operations inspector to make unhindered inspection and examine operations and transactions and, at his/her request, provide him with all necessary documentation and information about the activity the resident performs abroad.

Article 52

Customs authorities shall supervise taking foreign currency cash, convertible marks, cheques and securities into and out of the Federation in passenger traffic, exchange of commodities and postal and telecommunication services.

Article 53

Customs authorities may impound at a border crossing from a resident or non-resident an amount of convertible marks, foreign currency cash, cheques and securities denominated in foreign currency exceeding the amounts determined by the Federation Government.

Article 54

Residents and non-residents shall allow authorities under Article 48 above unhindered inspection and examination of their business operations and shall make available or send to them, on request, all necessary documentation and information about the activity the resident performs abroad.

Article 55

Misdemeanour proceedings shall be instituted and conducted following the legislation respecting misdemeanours proceedings.

VIII – PENAL PROVISIONS

1. Criminal Offences

Article 56

Persons engaging in illicit purchase or sale of foreign currency cash or organizing a network of middlemen and mediators, where the value of traded foreign currency cash exceeds BAM 50,000.00, shall be punished with a fine or a prison sentence of up to three years.

Article 57

The responsible person who, by contracting, organizing business and in some other ways, effects purchase, sale or mediation in purchase or sale of foreign currency cash in contravention of this Law or organizes exchange operations to be performed by the legal person without approval of the Ministry where the value of traded foreign currency cash exceeds BAM 50,000.00, shall be punished with a fine or a prison sentence of between six months and five years.

Misdemeanours

Article 58

For a misdemeanour, a fine of between BAM 10,000.00 to 15,000.00 shall be imposed against a resident legal person and non-resident legal person that pays or issues orders for international payments on the basis of fictitious contracts or other fictitious documents, or conclude contracts not stipulating the actual values (Article 7(5)).

The responsible person in the bank, state authority or organization, resident legal person and non-resident legal person shall be fined by up to BAM 3,000.00 for a misdemeanour under paragraph 1 above.

A resident entrepreneur and non-resident entrepreneur shall be fined by BAM 5,000.00 to 10,000.00 for a misdemeanour under paragraph 1 above.

A resident natural person and non-resident natural person shall be fined by BAM 1,000.00 to 1,500.00 for a misdemeanour under paragraph 1 above.

Article 59

For a misdemeanour, a fine of between BAM 5,000.00 to 10,000.00 shall be imposed against a resident that, when approving the loan and issuing guarantees and sureties for the benefit of non-residents, fails to contract with and acquire from the non-residents surety instruments safeguarding security of the credit transaction, guarantees issued and sureties given (Article 21(7)).

The responsible person in the resident shall be fined by BAM 3,000.00 for a misdemeanour under paragraph 1 above.

Article 60

For a misdemeanour, a fine of between BAM 10,000.00 to 15,000.00 shall be imposed against a resident legal person:

- a) that carries out currency exchange operations contrary to Article 38 above;

b) that fails to allow unhindered inspection and examination of its business operations and fails to make available all necessary documentation and provide required data (Article 54).

A non-resident legal person shall be fined by BAM 10,000.00 to 15,000.00 for a misdemeanour under paragraph 1(b).

The responsible person in the resident legal person and non-resident legal person shall be fined by BAM 3,000.00 for a misdemeanour under paragraphs 1(a) and 1(b).

A resident entrepreneur and non-resident entrepreneur shall be fined by BAM 5,000.00 to 10,000.00 for a misdemeanour under paragraphs 1(a) and 1(b) above and paragraph 2 respectively.

A resident natural person and non-resident natural person shall be fined by BAM 1,500.00 for a misdemeanour under paragraph 1(b).

For the acts referred to in paragraph 1 above, besides the fine, a sanction may be imposed and bar the entity from carrying out currency exchange transactions or other activities that were the subject of control, in the shortest period of three months and maximum duration of six months, except for payments and transfers under Article 2(9) above.

Article 61

For a misdemeanour, a fine of between BAM 10,000.00 to 15,000.00 shall be imposed against a bank, state authority or organization, resident legal person and non-resident legal person:

- a) that executes a payment order, i.e. international transfer, in violation of Article 7(2) above,
- b) that fails to bring the profit made abroad from the performance of investment construction, as well as foreign exchange kept by the other contracting party as a guarantee of the correctness of performed works, in line with the guarantee deadlines, into the Federation within 8 days after the completion of investment construction, and/or expiry of the guarantee deadline (Article 11),
- c) that fails to bring into the Federation the profit made by the performance of economic activity abroad in accordance with this Law (Article 12.),
- d) that fails to recover the amount paid in advance within eight days of the expiry of six months after having failed to import goods and services paid in advance abroad within six months after payment (Article 14(2)),
- e) that, whether a resident or non-resident, make payments and transfers of capital based on acquisition, sale and liquidation of direct investments abroad in violation of Article 15 above,
- f) that, whether a resident or non-resident, effects payments or transfers in order to acquire ownership over real estate abroad in violation of Article 17 above;
- g) that effects payments in order to purchase foreign securities in foreign and domestic capital markets in violation of Article 18(1) above.
- h) that effects payments in order to purchase domestic securities in violation of Article 18(3) above,

- i) that effects payments in order to purchase foreign short-term securities in foreign and domestic money markets in violation of Article 19(1) above,
- j) effect payments in order to purchase domestic short-term securities in violation of Article 19(2) above,
- k) that makes investment in foreign investment funds in violation of Article 20 above,
- l) that, being a bank, grants a loan in violation of Article 21(2) above,
- m) that grant each other foreign exchange loans (Article 21(4)),
- n) that uses funds from financial loans from abroad through a bank or an account opened abroad in accordance with provisions of this Law (Article 21(5)),
- o) that uses funds from financial credits from abroad through a bank in violation of Article 21(6),
- p) that grants financial loans to non-residents with a maturity of less than one year when it is prohibited by this Law (Article 21(8)),
- q) that, being a resident and a non-resident, grant each other domestic currency loans (Article 21((9)),
- r) that contracts credit transactions in violation of Article 22 above,
- s) purchase from a resident receivables arising from loans granted to non-residents, as well as the debt of a resident owed to non-residents arising from foreign credit transactions in violation of Article 24(1) above,
- t) purchase from a resident receivables arising from loans granted to non-residents, as well as the debt of a resident owed to non-residents arising from foreign credit transactions in violation of Article 24(2) above,
- u) that, being a non-resident, buy receivables and debts in violation of the Federation Government's regulation (Article 24(3)),
- v) that collects insurance/reinsurance premiums or pays insurance claims in violation of Article 27 above,
- w) that transfers funds from the foreign currency or convertible marks account without having produced a certificate of settlement of all customs duties and tax liabilities under Article 32 above,
- x) that, being a bank, fails to ensure confidentiality of information (Article 33(2)),
- y) that fails to comply with the reporting obligation under Article 47(1) above,
- z) that fails to allow the Agency or other competent governmental authority to examine their account books and make other necessary documentation available (Article 47(3));

The responsible person in the bank, state authority or organization, resident legal person and non-resident legal person shall be fined by BAM 3,000.00 for a misdemeanour under paragraph 1 above.

A resident entrepreneur and non-resident entrepreneur shall be fined by BAM 3,000.00 to 12,000.00 for a misdemeanour under paragraph 1 above.

A resident natural person and non-resident natural person shall be fined by BAM 1,500.00 for a misdemeanour under paragraph 1 above.

For the acts referred to in paragraph 1 above, besides the fine, a sanction may be imposed to bar the resident legal person and entrepreneur from carrying out the activity in the shortest period of three months and maximum duration of six months.

Article 62

For a misdemeanour, a fine of between BAM 10,000.00 to 15,000.00 shall be imposed against a bank, resident legal person and non-resident legal person:

1. a) that uses foreign exchange in violation of this Law (Article 3(1)),
- b) that uses foreign currency cash in violation of the Federation Government's regulations (Article 3(2)),
- c) that carries out payments, collection, transfers and repayment in the Federation in violation of this Law (Article 4(1)),
- d) that fails to deposit foreign currency cash in its foreign exchange account with a bank (Article 4(3)),
- e) that fails to carry out payments and collection based on current and capital transactions through a bank (Article 7(1)),
- f) that carries payments, collection and transfers based on current and capital transactions in violation of the Federation Government's regulations (Article 7(3)),
- g) that uses payment cards for payment based on capital transactions (Article 7(4)),
- h) that carries out payments, collection and transfers based on current and capital transactions in violation of the Ministry's regulations (Article 7(6)),
- i) that, being a bank, acts in violation of provisions of Article 8(2), 8(3), 8(4) and 8(5) above,
- j) that fails to bring into the Federation foreign exchange earned or foreign exchange transferred abroad but not spent abroad (Article 9),
- k) that, being a bank, fails to keep foreign exchange in accordance with this Law (Article 29),
- l) that has foreign exchange accounts with a bank abroad in violation of the Federation Government's regulation (Article 30(4)),
- m) that fails to keep foreign exchange earned in accordance with this Law with a bank (Article 31(2)),
- n) that keeps convertible marks not earned by collection based on current and capital transactions provided for in this Law in bank accounts with a bank (Article 31(3)),

- o) that purchases foreign exchange from a bank to the extent larger than the counter value of domestic currency earned in accordance with this Law (Article 31(4));
- p) that purchases or sells foreign exchange or foreign cash outside the foreign exchange market (Article 35(2)),
- q) that purchases or sells convertible marks by the exchange rate and terms in violation of Article 41(3) above,
- r) that fails to post and publish publicly the exchange rates used to purchase and sell foreign exchange and foreign currency cash (Article 41(4)),
- s) that takes out of the Federation convertible marks in violation of the Government's regulation (Article 43),
- t) that takes out of the Federation foreign cash and cheques in violation of the Government's regulation (Article 44),
- u) that fails to declare to the customs officer any amount of foreign currency cash, convertible marks and securities that is being taken into or out of the country in excess of the amounts determined by the Government. (Article 45(1)) and regulations against money laundry.

The responsible person in a bank and resident legal person and non-resident legal person shall be fined by BAM 2,500.00 to 3,000.00 for a misdemeanour under paragraph 1 above.

A resident entrepreneur and non-resident entrepreneur shall be fined by 2,500.00 to 10,000.00 for a misdemeanour under paragraph 1 above.

A resident natural person and non-resident natural person shall be fined by BAM 1,500.00 to 10,000.00 for a misdemeanour under paragraph 1 above.

For the acts referred to in paragraph 1 above, besides the fine, a sanction may be imposed to bar the resident legal person and entrepreneur from carrying out the activity in the shortest period of three months and maximum duration of six months.

Article 63

For a misdemeanour, a fine of between BAM 1,500.00 to 12,000.00 shall be imposed against a resident:

- a) that fails to bring into the Federation means of payment with regard to export of goods or provision of services abroad within 6 months following the export goods clearance/the execution of the service (Article 10(1)),
- b) that fails to bring into the Federation any means of payment realized on the sale of goods located abroad and directly delivered abroad, within six months from the date of payment. (Article 10(3)),
- c) that fails to import the goods and service paid in advance in the Federation within six months from the date of payment (Article 14(1)),

d) that fails to report to the Ministry of Finance on credit transactions under this Law (Article 25(1)). The responsible person in the resident legal person shall be fined by BAM 1,500.00 to 3,000.00 for a misdemeanour under paragraph 1 above.

Also the responsible person in a resident entrepreneur shall be fined by BAM 1,500.00 to 3,000.00 for a misdemeanour under paragraph 1 above.

For the acts referred to in paragraph 1 above, besides the fine, a sanction may be imposed to bar the resident legal person and entrepreneur from carrying out the activity in the shortest period of three months and maximum duration of six months.

Article 64

For a misdemeanour, a fine of BAM 1,500.00 shall be imposed against a resident natural person:

- a) that effects payments in order to purchase foreign securities in foreign and domestic capital markets in violation of Article 18 above,
- b) that pays premiums of life insurance to an insurance company in violation of Article 26 above,
- c) that carries out personal and physical transfers of foreign means of payment in violation of the Federation Government's regulations (Article 28(2)).

Article 65

For the acts under Articles 58 and 61 above, apart from a fine, a protective measure of temporary seizure of the items that were used or were meant to be used in the perpetration of a misdemeanour or were generated by the perpetration of the misdemeanour may be imposed.

The items under paragraph 1 above may be seized even if they do not belong to the perpetrator or are not disposed of by the perpetrator.

As an exception to paragraph 1 above, partial seizure of items used in or intended for the perpetration of misdemeanour, or generated by the perpetration of misdemeanour, may be carried on, when the motives or other circumstances under which the misdemeanour was committed point to the conclusion that the seizure of item in its entirety is not justified.

Article 66

Fines, proceeds and means of payment, and the funds arrived at through the sale of items used in or intended for the perpetration of criminal offence or misdemeanour, or generated by the perpetration of criminal offence or misdemeanour, shall be paid into the RS revenue budget.

Foreign currency cash, foreign exchange or other means of payment seized as an item of the perpetration of criminal offence or misdemeanour shall be paid into the Federation budget revenue account.

VIII TRANSITIONAL AND FINAL PROVISIONS

Article 67

Proceedings initiated until the entry into force of this Law shall be finalized under provisions of the law that was in force at the time of the commitment of the subject act.

Article 68

Regulations for implementation of this Law shall be adopted by the competent authorities within six months from the day this law comes into force.

Article 69

Law on foreign exchange operations (Official Gazette of the Federation of BiH, no 35/98) and the Law on foreign credit operations ("Official Gazette of RBiH", no 2/92 i 13/94) cease to be valid with coming into force of this Law.

Article 70

This Law comes into force day after from the day it is published in "Official Gazette of the Federation of BiH".

CHAIRPERSON
OF HOUSE OF PEOPLE
OF THE PARLIAMENT OF BIH FEDERATION
Stjepan Kresic

CHAIRPERSON
OF HOUSE OF REPRESENTATIVES
OF THE PARLIAMENT OF BIH FEDERATION
Safet Softic