

LAW

ON FOREIGN CURRENCY TRANSACTIONS

("Official Herald of the Republic of Serbia", Nos. 62/2006, 31/2011, 119/2012 and 139/2014)

I GENERAL PROVISIONS

Article 1

The present Law shall govern:

- 1) Payments, collections and transfers between residents and non-residents in foreign means of payment and dinars;
- 2) Payments, collections and transfers between residents in foreign means of payment;
- 3) Purchase and sale of means of payment between residents and non-residents, as well as purchase and sale of foreign means of payment between residents;
- 4) Unilateral transfers of means of payment from and into the Republic of Serbia (hereinafter referred to as: the Republic) which do not have the characteristics of transactions performed between residents and non-residents;
- 5) Current and deposit accounts of residents abroad and of residents and non-residents in the Republic;
- 6) Credit facility operations in the Republic executed in foreign currency and international credit facility operations.

II DEFINITIONS OF TERMS

Article 2

For the purposes of the present Law:

(1) Residents shall be:

- 1) Legal person registered in accordance with regulations and headquartered in the Republic;

2) Entrepreneur - natural person registered in the Republic and pursuing a legally allowed activity as a form of profession for the purpose of making profit;

3) Branch of a foreign legal person entered into the register with the competent body in the Republic;

4) Natural person residing in the Republic, except for a natural person with temporary residence abroad for over a year;

5) Natural person - foreign citizen residing in the Republic on the basis of residence permit, and/or work visa for over a year, except for diplomatic and consular representatives of foreign countries and members of their families;

6) Beneficiaries of the budget of the Republic of Serbia, the beneficiaries of mandatory social insurance and beneficiaries of the budget of a local authority, as well as other beneficiaries of public funds, included in the system of the treasury consolidated account.

7) Diplomatic, consular or other representative office abroad financed from the budget of the Republic, domestic citizens employed in these offices, as well their family members.

(2) Non-residents shall be all persons not listed in Item (1) of the present Article.

(3) Bank shall be a resident - a joint stock company headquartered in the Republic, which is licensed for work by the National Bank of Serbia and carries out deposit and credit facility transactions, payment and credit facility transactions with foreign countries, as well as other activities in accordance with the law.

(3a) Payment Institution shall be a resident - legal person domiciled in the Republic, which has a permit of the National Bank of Serbia for the provision of payment services as a payment institution, in accordance with the law governing payment services.

(3b) The issuer of electronic money shall be a person domiciled in the Republic that issues electronic money in accordance with the law governing payment services, as well as a foreign electronic money institution, or non-resident - legal person that performs tasks that correspond to the operations of the electronic money institution within the meaning of the law governing payment services.

(4) Means of payment shall be dinars and foreign means of payment.

(5) Foreign means of payment shall be:

1) foreign currency - external claims denominated in foreign currency;

2) foreign cash - claims in cash, and/or banknotes and coins denominated in foreign currency.

(6) Payment instruments shall be: cheques, bills of exchange, letters of credit, remittances, payment cards and other payment instruments - claims from the issuer - non-resident, denominated in foreign currency and cashable in foreign currency.

(7) Securities shall be securities determined by the law governing the capital market.

(8) Domestic securities shall be securities issued by the resident in the domestic and foreign market, and may also be denominated in foreign currency if prescribed by a special law.

(9) Foreign securities shall be securities issued by a non-resident.

(10) Long-term securities shall be debt securities with maturity longer than one year.

(11) Short-term securities shall be debt securities with maturity up to one year.

(12) Financial derivatives shall be financial instruments as defined by the law governing the capital market.

(13) Foreign currency market shall be the market where foreign currency and foreign cash are purchased and sold.

(14) Exchange operations shall be the activities of purchase and sale of foreign cash and cheques denominated in foreign currency, from and to natural persons.

(15) Current transactions shall be transactions concluded between residents and non-residents and the purpose of which is not the transfer of capital.

(16) Capital transactions shall be transactions between residents and non-residents and the purpose of which is the transfer of capital.

Capital transactions referred to in paragraph 1 of the present Item shall be the following:

- direct investments,
- investments in real estate,
- transactions with securities,
- transactions with financial derivatives,
- transactions with investment and voluntary pension funds,
- credit facility operations,
- guarantee transactions,
- deposit operations,
- operations based on insurance contract in line with the law governing insurance,
- unilateral transfers of means of payment (personal and physical).

(17) Direct investments shall be resident's investments into legal person abroad and non-resident's investments into legal person in the Republic for the purpose of getting included in the management of such legal person's activities.

For the purposes of paragraph 1 of the present Item, investments shall be understood as: incorporation of legal person, branch or representative office, purchase of shares or stake in the capital of legal person, additional capital formation of the legal person as well as any other form of investment whereby the investor acquires more than a 10% stake in share capital, and/or more than 10% of voting rights, in a period not longer than one year after the first investment into that legal person in the event of successive investments (for the purpose of reaching the threshold of 10%).

Investments in terms of Paragraph 1 of this Item shall also include credit facilities and loans with a maturity of five years or longer if they have the characteristics of a subordinated claim (subordinated credit facilities and loans).

(18) Transactions with securities shall be transactions with long-term and short-term securities and equity securities.

(19) Credit facility operations shall be credit facility operations in the Republic and international credit facility operations.

(20) Credit facility operations in the Republic shall be credit facilities that the bank approves to a resident in foreign currency.

(21) International credit facility operations are credit facilities approved by a bank or a foreign bank, and loans between residents and non-residents, which are reported to the National Bank of Serbia by residents.

Credit facility operations referred to paragraph 1 of this item are:

- Commercial credit facilities and loans in foreign currency and dinars linked to foreign trade of goods and services, which include delayed payment and pre-payment of goods and services up to one year with interest, or over one year without interest. Financing of delayed payment and pre-payment of goods and services approved by a creditor or lender to a debtor – buyer in the foreign trade of goods and services, by direct fulfillment of the obligation to the seller, at buyer's order, is also considered to be commercial credit facility and loan,

- Financial credit facilities and loans in foreign currency which are approved by a creditor to a borrower by making the funds available by paying them to the borrower's account. Financial credit facilities and loans shall also be all forms of financing approved by banks, foreign banks and other financial institutions. Financing of trade of goods or services, approved by a bank, in which a resident is not a contracting party in the trade, is also considered to be a financial credit facility.

Commercial and financial credit facilities and loans may be approved to a debtor by a creditor or lender, or a group of creditors or lenders (a syndicated credit facility or loan).

Credit facility operations referred to in paragraph 1 of this item are also:

- Subordinated credit facilities and loans as defined in hereby item (17), paragraph 3, approved in foreign currency,

- Short-term foreign currency bank time deposits with a maturity of up to one year between a bank and a foreign bank, when a bank - creditor pays funds to an account of a bank - borrower,

- Short-term bank line of credit in foreign currency with a maturity of up to one year between a bank and a foreign bank, when a bank – creditor makes payments at the demand of a bank - borrower,
- Other activities that have the characteristics of the international credit facility operation.

Credit facility operations referred to in paragraph 1 of this item shall also include:

- Bank guarantees, endorsements and other forms of sureties given by a bank in favor of a non-resident creditor for credit facilities taken by residents from abroad, and for credit facility operations between two non-residents abroad,
- Sureties and other forms of collateral that a resident - legal person and entrepreneur gives at the benefit of a non-resident - creditor for credit facilities taken by residents from abroad, as well as sureties and other forms of collateral that a resident - legal person gives under credit facility transactions between two non-residents abroad.

International credit facility transactions are also considered to be credit facilities and loans in dinars, which, in accordance with the provisions of this Law, the international financial institutions and development banks or financial institutions founded by foreign states approve to residents, as well as credit facilities in dinars approved by the banks to non-residents.

(21a) Guarantee operations are operations of issuing and acquiring guarantees, endorsements, sureties and other forms of collateral that a bank conducts in accordance with the regulations on banks, except for the guarantees referred to in hereof item (21), paragraph 5, first indent.

Following operations shall also be considered as guarantee operations:

- Sureties given by the resident legal person to non-resident under foreign trade of goods and services and execution of investment works in the Republic,
- Guarantees and sureties obtained by a resident legal person from non-resident under foreign trade of goods and services and execution of investment works abroad, as well as under a transaction with another resident legal person in the Republic,
- Guarantee operations carried out by a resident - legal person founded by the Republic under a special law to finance exports.

(22) For the purposes of the present Law, deposit operations shall be operations based on the deposit contract concluded between the non-resident and the bank, as well as between the resident and the bank abroad.

(23) Operations based on insurance contract shall encompass payments of premiums and insured sums on the basis of contract concluded between the insurance company - non-resident and resident as the insured, as well as between insurance company - resident and non-resident as the insured, in line with the law governing insurance.

(24) Currency clause shall mean contracting the value of liability in foreign currency (liability currency) in the Republic, whereas payment and collection under such contracts are executed in dinars (payment currency).

(25) Personal transfer of means of payment shall be the transfer of funds from the Republic to abroad or from abroad to the Republic which is not based on the execution of the activity - it shall be performed between a resident natural person and non-resident, and shall include gifts and aid, inheritance, annuities, settlement of debt of immigrants in the Republic and the transfer of immigrants' funds to abroad.

(26) Physical transfer of means of payment shall be any transfer of cash in dinars, as well as transfer of foreign cash and securities from the Republic and into the Republic.

III CURRENT TRANSACTIONS

Article 3

Payment, collection and transfers under current transactions between residents and non-residents shall be executed freely, in line with the present Law.

Payments and transfers under current transactions shall include, without restrictions, the following:

- 1) payments under external trade activities and other external current transactions as provided by the law governing foreign trade;
- 2) payments with regard to the repayment of a part of the principal and interests on credit facilities;
- 3) return of investment funds, as well as transfer abroad and repatriation of profit from direct investments;
- 4) transfers in favour of natural persons with regard to: pensions, disability pensions and other social contributions, transfers with regard to taxes and fees, interstate cooperation, liquidated damages with regard to the insurance contract, transfers with regard to valid and enforceable decisions, transfers with regard to gains from lotteries, concession compensations, subscriptions and penalties, and other transfers, as well as transfers with regard to the amount of costs for family sustenance.

Article 4

Export and import of goods and services contracted in foreign currency or dinars which is not collected or paid within a time period of more than one year from the date of such export or import, as well as the goods or service billed or paid in advance in foreign currency or dinars, which is not exported, or imported for a time period of more than one year from the date of billing or payment, are considered to be commercial credit facilities and loans.

Article 5

(Erased)

Article 6

Resident - legal person, a branch of a foreign legal person or entrepreneur may set off debts and claims on the basis of realized resident's foreign trade of goods and services which is not considered to be commercial credit facility and loan.

The Government shall prescribe the manner of conducting the activities referred to in Paragraph 1 of this Article.

Bank, resident - legal person, entrepreneur, or a branch of a foreign legal person may set-off debts and claims arising from international credit facility operations in foreign currency with claims or debts arising from these operations, from realized foreign trade of goods and services as well as from direct investments and investments in real estate referred to in Articles 11 and 12 of this Law, under conditions prescribed by the National Bank of Serbia.

Article 7

Banks or residents, except for residents – natural persons, and non-residents, may transfer or pay or collect receivables and payables arising from realized foreign trade of goods and services by a resident that is not considered to be commercial credit facility and loan.

Activities referred to in paragraph 1 of the present Article may be performed only on the basis of a contract between the transferor and the recipient of receivables and payables, with a requirement that the transferor notifies the debtor who is the creditor of the underlying transaction, on executed transfer.

The contract referred to in paragraph 2 above shall include identification details of the contractual parties, data on origin of receivables and payables which are the subject of the transfer, including information about the debtor and the creditor, as well as information about the currency and the amount of receivables and payables that are subject of the transfer.

Receivables and payables originating from realized foreign trade of goods and services of a resident – a state owned company or a legal person with state capital or legal person who is in the process of restructuring and privatization, may be transferred or paid or collected only on the basis of a contract, consent, or statements concluded between all participants in the transaction, with a prior approval of the Government, except for receivables and payables of a resident - legal person founded by the Republic by a special law with a purpose to finance exports.

Article 8

Resident cannot execute collection, payment or issue a payment order, and/or execute transfer to non-resident, on the basis of contract where the actual price has not been stated or on the basis of untrue document.

Article 8a

(Erased)

Article 9

(Erased)

IV CAPITAL TRANSACTIONS

Article 10

Payment, collection and transfer under capital transactions between residents and non-residents shall be executed freely, unless otherwise stipulated by the present Law.

1. Direct Investments of Residents and Non-Residents

Article 11

Payment and transfer of capital with regard to direct investments of residents - legal entities, entrepreneurs and natural persons to abroad shall be executed freely, in line with the law governing foreign trade.

Payment and transfer of capital with regard to direct investments of non-residents in the Republic shall be executed freely in line with the law governing foreign investments.

Article 11a

Residents - legal entities, entrepreneurs and natural persons may pay and collect in order to buy or sell equity of a foreign legal person abroad, which is not considered to be direct investment.

Non-residents may pay or collect in order to purchase or sell equity of a resident legal person which is not considered to be a direct investment, in accordance with the law governing companies.

2. Investments in Real Estate

Article 12

Payments for the purpose of acquiring ownership of real estate of residents abroad and non-residents in the Republic shall be executed freely, in line with the law governing legal ownership relations.

3. Transactions with Securities

Article 13

Residents - legal entities, entrepreneurs and natural persons may effect payment and collection for the purchase and sale of foreign equity securities that are not direct investments.

Residents in Paragraph 1 of this Article may effect payment and collection for the purchase and sale of long-term debt securities issued by member states of the European Union, OECD, international financial institutions and development banks or financial institutions founded by foreign states.

Residents referred to in paragraph 1 of the present Article may effect payment and collection for the purchase and sale of other long-term debt securities abroad whose level of risk (rating) and issuer country shall be prescribed by the National Bank of Serbia.

Residents may effect payment and collection for the purchase and sale of domestic securities denominated in foreign currency and issued abroad.

The National Bank of Serbia shall prescribe the deadlines and manner of reporting on the activities referred to in the present Article.

Article 14

Non-residents may effect payment and collection for the purpose of purchasing and selling long-term debt securities in the Republic, as well as equities in line with the law governing the capital market.

The National Bank of Serbia shall prescribe the deadlines and manner of reporting on the activities referred to in paragraph 1 of the present Article.

Article 15

Payment and collection for the purpose of purchasing and selling foreign short-term securities in the foreign and domestic market shall be effected by the National Bank of Serbia, whereas banks shall effect such payments under terms and conditions prescribed by the National Bank of Serbia.

Residents, except for residents referred to in paragraph 1 of the present Article, cannot effect payment for the purpose of purchasing foreign short-term securities.

Non-residents cannot make payments for the purchase of short-term securities in the Republic.

4. Transactions with Financial Derivates

Article 16

Payment, collection, transfer, set-off, as well as reporting on transactions with financial derivatives are carried out under conditions and in the manner prescribed by the National Bank of Serbia.

5. Operations with Investment and Voluntary Pension Funds

Article 17

Residents - investment and voluntary pension fund management companies may effect payment and collection on the basis of investing abroad, in line with the provisions of the law governing activities with investment and voluntary pension funds.

Residents - legal entities, entrepreneurs and natural persons may make payments and collection on the basis of investing into foreign investment funds using the residents - investment companies and investment funds management companies as intermediaries, in terms of the law governing the capital market.

Non-residents may effect payment and collection on the basis of investing into investment funds and voluntary pension funds in the Republic, in line with the provisions of laws governing activities with investment and voluntary pension funds.

6. International Credit facility Operations

Article 18

Credit facility operations referred to in Article 2, item (21), Paragraphs 2 and 3, the first and the third indent of the Paragraph 4, and Paragraph 5 of this Law, shall be concluded in written form.

Credit facilities and loans in dinars referred to in Article 2, item (21), Paragraph 6 of this Law may be approved to a bank, a resident - legal person and an entrepreneur only by International financial organizations and development banks or financial institutions founded by foreign states, under conditions and in manner prescribed by the National Bank of Serbia. Credit facilities in dinars may be approved to non-residents only by banks, under conditions and in manner prescribed by the National Bank of Serbia.

Bank may enter into credit facility transactions with foreign countries in Article 2 Item (21) of this law in its name and for its own account, in its name and for the account of others, or in others' name and for the others' account. Bank may, in accordance with the regulations on banks and this Law, issue bank guarantees, endorsements and other forms of surety for the benefit of non-resident - creditor for credit facilities taken by residents from abroad and to obtain guarantees, sureties and other forms of collateral from non-residents for credit facilities that it approves to non-residents, while guarantees, endorsements and other forms of surety for credit facility transactions between two non-residents abroad it may approve, under the condition that it stipulates and obtains from the non-resident instruments of payment collateral.

Bank may participate in the syndicated financial credit facility or loan which a group of foreign creditors approves to the non-resident provided that it contracts and obtains from the non-resident instruments of payment collateral, under the terms of Article 21 of this law in such credit facility or loan that is approved a resident.

Bank may purchase receivables from non-residents - participants in the syndicated financial credit facility or loan which a group of foreign creditors approves to the debtor, subject to Paragraphs 4 of this Article, as well as sell to the non-resident its receivable on this basis.

Bank may participate in the syndicated commercial credit facility or loan that is approved to a resident or a non-resident for the purpose of financing of deferred payment and prepayment in foreign trade of goods and services, purchase receivable from a non-resident - participant in such syndicated credit facility, and sell to a non-resident its receivable on this basis.

Resident - legal person can take credit facilities and loans from abroad and approve to non-residents commercial loans in its name and for its own account, and in its name and for the account of others, while it may approve the financial loans to non-residents in its name and for its own account in accordance with Article 23 of this law. Resident - legal person may provide surety and other forms of collateral in favor of non-resident - creditor for loans taken by residents from abroad and obtain guarantees, sureties and other form of collateral from non-residents for credit facilities that it approves to non-residents, while sureties and other means of collateral under credit facility transactions between two non-residents abroad it make approve in accordance with Article 23 of this law.

Resident - legal person, established by the Republic in line with a special law with the purpose to finance exports, may conduct credit facility transactions with foreign countries and transfer, pay or collect receivables and payables under such operations, in accordance with that special law.

Resident - entrepreneur may in its own and for its own account take credit facilities and loans from abroad, give surety and other forms of collateral in favor of non-resident - creditor for credit facilities taken by residents from abroad, approve to non-resident commercial loans and obtains guarantees, sureties and other forms of collateral from non-residents for credit facilities it approves to non-residents.

Bank, resident - legal person and entrepreneur may enter into other activities that have the characteristics of international credit facility operations referred to in Article 2 Item (21) Paragraph 4, indent four, of this Law in conformity with the regulation of the National Bank of Serbia adopted on the basis of Article 24 of this Law.

Resident - natural person may get a line of credit or a loan from abroad with maturities longer than one year, which are used by payment of the loaned funds to the bank account of that resident, while such lines of credit and loans may be acquired by a resident - branch of a foreign legal person from a non-resident - founder.

Non-resident may give guarantee, surety and other forms of collateral without limitation, in favor of non-resident -creditor for credit facilities taken by residents abroad.

Article 19

Resident who concludes international credit facility operations contract shall be responsible for the execution of obligations arising from the contract, as well as resident under whose authorization and for whose account the contract was concluded, and/or the bank and resident - legal person that purchases claims from the resident and/or assumes debt towards the non-resident with regard to international credit facility operations.

The Republic and the National Bank of Serbia shall not guarantee for the execution of obligations arising from international credit facility operations, except in cases envisaged by law.

The international credit facility operations contract shall be considered null and void if concluded in breach of provisions of paragraph 2 of the present Article.

Article 20

Banks or residents, other than residents–natural persons, and non-residents, may transfer, pay, or collect receivables and payables of residents that originated on the basis of an international credit facility operation.

Operations referred to in paragraph 1 of the present Article may be performed only on the basis of a contract concluded between transferor and transferee of a receivable or payable, with an obligation of the transferor to notify the debtor, or the creditor of the underlying transaction, on executed transfer.

The contract referred to in Paragraph 2 above shall particularly include identification of the contractual parties, details of the basis on which they the receivables and payables

that are the subject of transfer were incurred, including information about the debtor, or the creditor, as well as information on the currency and the amount of receivables and payables that are the subject of the transfer.

Receivables and payables arising from international credit facility operation of a resident – a state owned company or a legal person with state capital, or legal person who is in the process of restructuring and privatization, with the exclusion of receivables and payables of a resident - legal person founded by the Republic by a special law to finance exports, may be transferred, or paid, or collected, only on the basis of a contract, agreement or statements executed between all participants in the transaction, with the prior approval of the Government

Article 21

Financial credit facilities taken from abroad may be used for the payment of import of goods and services and financing of the performance of construction works abroad, concluded by residents within the scope of their activity, and for the repayment of previously used external credit facilities (refinancing).

Residents may take financial credit facilities from abroad for other purposes as well, in the manner and under the conditions determined by the National Bank of Serbia.

Article 22

The National Bank of Serbia may determine the volume and conditions under which banks may take short-term bank deposits and short-term bank credit facility lines from foreign banks.

Article 23

Residents - legal entities may approve financial credit facilities to non-residents, under the condition that the non-resident - debtor in credit facility operation is in majority ownership of the resident.

Under the conditions referred to in paragraph 1 of the present Article, residents - legal entities may also grant sureties and other forms of collateral for credit facility operations between two non-residents abroad.

Resident – a state owned company, or a legal person with state capital, or a legal person that is in the process of restructuring or privatization, may perform tasks from Paragraphs 1 and 2 of this Article only with consent of the Government.

When performing international credit facility operations referred to in paragraphs 1 and 2 of the present Article, the resident - legal person shall be obliged to contract and acquire from the non-resident payment collateral instruments.

Provisions of paragraph 4 of the present Article shall also apply to the bank that approves a credit facility to the foreign person or issues a bank guarantee, endorsements and other forms of surety for credit facility operations between two non-residents abroad.

The National Bank of Serbia may prescribe the manner and conditions of performing operations under this Article.

Article 24

The National Bank of Serbia shall prescribe the manner, deadlines and forms for reporting on international credit facility operations.

Lending in Foreign Currency between Residents in the Republic

Article 25

Banks may approve to residents - legal entities and entrepreneurs credit facilities in foreign currency for the payment of import of goods and services from abroad.

Banks may approve to residents - natural persons credit facilities in foreign currency for the purchase of real estate in the country.

Guarantee transactions

Article 26

Bank, in accordance with the regulations on banks, issues and acquires guarantees, endorsements, sureties and other forms of collateral.

Exceptionally, the bank cannot obtain guarantees and sureties from non-residents for its claims in the Republic, arising from foreign credit facility for which the state assumed the obligation of foreign repayment.

Resident - legal person, which is established by a special law by the Republic to finance exports, may perform guaranty transactions in accordance with such special law.

Resident - legal person can provide a surety to non-resident as per transaction of import of goods and services of another resident, as well as to non-resident who performs in investment works in the Republic.

Resident - a state owned company, and a legal person with state capital, or a legal person that is in the process of restructuring and privatization, may give surety to non-resident under transactions from Paragraph 4 of this Article under the terms and in manner prescribed by the Government.

Resident - legal person can obtain guarantee and surety from non-resident per transaction of export of goods and services and performance of investment works in a foreign country for another non-resident, as well as per transaction between the resident and another resident - legal person in the Republic.

The provisions of this Article shall not apply to guarantees and sureties under Article 2 Item (21) Paragraph 5 of this law, which are considered as a foreign credit facility transaction, and are conducted in accordance with Article 18 of this law.

7. Deposit Operations

Residents' External Deposit Operations

Article 27

The bank shall, without any restrictions, keep foreign currency on the accounts of banks abroad.

Residents may keep foreign currency on the accounts of banks abroad in the manner and under conditions prescribed by the National Bank of Serbia.

Non-Residents' Deposit Operations in the Republic

Article 28

Non-resident may keep foreign currency and dinars on the account with a bank without restrictions in accordance with the present Law.

The National Bank of Serbia shall prescribe conditions under which banks may open accounts for non-residents and the manner of keeping such accounts.

Transfer of Funds from Accounts to Abroad

Article 29

Non-resident who operates through a non-resident account and a resident - branch of a foreign legal person that operates through a resident account, perform transfer from these accounts to abroad provided that they have previously settled the tax liabilities from that transaction to the Republic. Such non-resident and resident shall submit the confirmation of the competent tax authority on paid tax obligations.

The transfer of funds to abroad from the foreign currency and dinar savings account of a non-resident shall be executed freely.

Foreign bank that keeps funds in the account with the bank in the Republic shall not be liable to the obligation referred to in paragraph 1 of the present Article.

The transfer of funds abroad from the special-purpose accounts of non-residents opened for trading in securities is not subject to the obligation under Paragraph 1 of this Article, if so is regulated by international agreement on avoidance of double taxation.

8. Payments under Insurance Contract

Article 30

Residents - insurance companies may effect payment for the purpose of depositing and investing abroad, in line with the provisions of the law governing insurance activities.

Resident may pay insurance premiums based on the insurance contract concluded with non-resident - insurance company, under the condition that such contract is allowed by the law governing insurance activities.

9. Unilateral Transfers of Means of Payment - Personal and Physical

Article 31

The National Bank of Serbia shall prescribe more detailed conditions for personal and physical transfers of means of payment to and from abroad.

Article 31a

(Erased)

V PAYMENT TRANSACTIONS

Article 32

International payment transactions shall be performed in foreign currency and dinars through the bank.

Residents may perform international payment transactions also via electronic money issuer - for payments and collections in respect of electronic buying and selling of goods and services. Residents – natural persons may perform payment transactions with foreign countries also via the payment institution and the public postal operator that provides payment services, in accordance with the law governing payment services.

Funds of residents that are held with the foreign electronic money institution for the purpose of payment or collection in respect of the electronic sale and purchase of goods and services are not considered deposit within the meaning of Article 27, Paragraph 2 of this Law.

Residents referred to in Article 36 of the present Law shall perform international payment transactions through the National Bank of Serbia.

Payment transactions under financial and subordinated credit facilities and loans in foreign currency, credit facilities and loans taken from non-resident by residents - natural persons and branches of foreign legal entities, as well as under credit facilities and loans in dinars which are approved to residents in accordance with Article 18, Paragraph 2 of the present Law, may be performed only if the residents have previously reported those transactions to the National Bank of Serbia, in accordance with the present Law.

Payments under commercial credit facilities and loans in foreign currency and dinars are performed subject to Paragraph 5 of this Article for financing deferred and advance payments of goods and services approved by a creditor or lender to a debtor - a purchaser in the foreign trade of goods and services by directly paying the seller at the purchaser's order.

Payments under other international credit facility operations may be performed without previously reporting them to the National Bank of Serbia.

The National Bank of Serbia shall prescribe more detail conditions and manner of performing international payment transactions with regard to current and capital transactions.

Article 33

Resident may also effect the collection and/or payment in respect of non-resident other than the one with regard to whom the resident has any debt or claims, under current or capital transactions, provided that such transaction is allowed by the present Law.

Resident - debtor under dinars credit facility taken from the international financial organization and development bank or financial institution founded by foreign states may also make the payment to another international financial organization and development bank or financial institution founded by foreign states, and not to the one to which is indebted under that transaction.

Transactions referred to in Paragraphs 1 and 2 of the present Article may be performed solely on the basis of a contract concluded between all participants in the transaction or a statement of a resident on being informed about the executed transfer.

Contract or statement of a resident contains in particular identification of all participants in the transaction, information about the basis on which originated the receivables and payables from the main transaction, and data on currency and the amount of receivables and payables that are subject to transactions specified in Paragraphs 1 and 2 of this Article.

Resident – a state owned company and a legal person with state capital, or legal person that in the process of restructuring or privatization, may perform collection or payment to other non-resident under transactions referred to in Paragraphs 1 and 2 of this Article only on the basis of a contract, consent or statements executed between all participants in the transaction, with the prior approval of the Government, with the exclusion of a resident - legal person which was founded by the Republic, by a special law, to finance exports.

Residents are required to report changes in the credit facility transactions specified in Paragraphs 1 and 2 of this Article to the National Bank of Serbia, in accordance with regulations adopted pursuant to Article 24 of this Law.

Article 34

Payment, collection and transfer between residents and between residents and nonresidents in the Republic are made in dinars.

Notwithstanding the provisions of Paragraph 1 of this Article, payment, collection and transfer in the Republic can be made in foreign currency on the basis of:

- 1) Foreign credit facilities in the country for the purposes from Article 25 of this law;
- 2) Purchase of claims and assuming of debts from Art. 7 and 20 of this law - on the basis of a contract;
- 3) Payment of deposits as means of collateral;
- 4) Insurance premiums and transfer on the basis of life insurance;
- 5) On bases of the sale and leasing of real estate;
- 6) Donations for humanitarian, scientific and cultural purposes, in accordance with the regulations governing donations;
- 7) Guarantee transactions referred to in the Article 26 of the present Law, under main transaction performed in foreign currency;

8) Reimbursement of expenses of official travel abroad, which can be done in effective foreign currency too;

9) Payment of salaries to residents - natural persons who were sent to a temporary work abroad under a contract for execution of investment projects abroad, as well as to employees of diplomatic and consular missions, organizations within the UN and international financial organizations in the Republic.

Payment, collection and transfer can be also be made in foreign currency on the basis of programs and projects financed by the European Union Development Aid involving the Republic, where funds may be sent to contractors or beneficiaries and project partners in accordance with the relevant agreement for the implementation of activities based on European Union Development Aid.

Bank may by order of non-resident - the buyer of goods or services, to which it approves the commercial credit facility for financing deferred and advance payments of goods and services, perform payment in the Republic in foreign currency to the resident - the seller of that goods or provider of services in foreign trade.

Payment, collection and transfer in the Republic may also be made in foreign currency under transactions that are regulated by laws governing capital market and deposit insurance.

Payment, collection and transfer in the Republic may also be made in foreign currency in other cases provided by law.

Bank at the request of a resident may perform transfer of funds in foreign currency from foreign currency account of that resident to his foreign currency account at another bank or to the foreign currency bank account of a family member in this or other bank, with proof that this person is a relative within the third degree of consanguinity.

Contracting with usage of foreign currency is allowed in the Republic whereby payment and collection under those contracts shall be made in dinars.

The National Bank of Serbia shall prescribe the instances and conditions under which the payment, collection, deposits and withdrawals may be done in foreign cash as well.

Article 35

The bank shall keep foreign currency with another bank as well, and/or with the National Bank of Serbia.

Resident – a legal person, a branch of a foreign legal person or entrepreneur keeps foreign currency on a bank account or sells them to the bank.

The National Bank of Serbia shall prescribe to banks the conditions for opening and the manner of maintaining foreign currency accounts and residents' foreign currency savings deposits.

The level, manner of calculation and payment of interest, and the currency in which interests and the principal are paid shall be determined by the contract between the bank and the resident.

Article 36

Residents - beneficiaries of the budget of the Republic of Serbia, the beneficiaries of mandatory social insurance organizations and beneficiaries of budgets of local authorities, as well as other beneficiaries of public funding involved in the system of consolidated treasury account, keep their foreign currency account with the Treasury within the consolidated treasury account held at the National Bank of Serbia, unless a special law or international agreement provides otherwise, while they may sell to the National Bank of Serbia foreign currency and foreign cash generated by their operations.

By way of exception to the provision of paragraph 1 of the present Article, the minister in charge of finance may approve to the beneficiary referred to in paragraph 1 of the present Article the opening of a foreign currency account with an authorized bank for payments that cannot be effected through the National Bank of Serbia, provided this is required by the specific characteristics of beneficiary's activities.

The National Bank of Serbia shall prescribe the manner of conducting business between the National Bank of Serbia and the Treasury, which is conducted through the consolidated treasury account referred to in Paragraph 1 of this Article.

Reporting on Payment Transactions

Article 37

The National Bank of Serbia shall prescribe to residents the obligation to report on the payment, collection and transfer with regard to payment transactions referred to in Articles 32 and 34 of the present Law.

Using the data from reports referred to in paragraph 1 of the present Article, the National Bank of Serbia shall prepare the projection of the balance of payments of the Republic which serves as the analytical basis for determining monetary policy objectives and tasks, and it shall monitor the realization of the projection made.

VI FOREIGN CURRENCY MARKET AND DINAR EXCHANGE RATE

Foreign Currency Market

Article 38

Foreign currency and foreign cash may be purchased and sold only in the foreign currency market and for the purposes allowed by the present Law.

Purchase and sale of foreign currency and foreign cash in the foreign currency market in the Republic shall be performed:

1) directly:

- between banks and residents, as well as between banks and non-residents;
- between banks;
- between banks and the National Bank of Serbia;

- between residents authorized to perform exchange operations and the National Bank of Serbia;
- between banks and residents authorized to perform exchange operations;
- between residents referred to in Article 2, Item (1), indent 6) and the National Bank of Serbia.

2) at the session of the interbank foreign exchange market:

- between banks;
- between banks and the National Bank of Serbia.

Purchase and sale of foreign cash in the foreign currency market shall be performed by the bank, the National Bank of Serbia, as well as by other residents that perform exchange operations in line with the present Law.

The National Bank of Serbia shall prescribe the conditions and procedures in the foreign currency market operations.

Article 39

Exchange operations may be performed by:

- 1) Bank and a resident – business entity that conducts exchange operations on the basis of a special law regulating its activity;
- 2) Residents - legal entities and entrepreneurs who have an authorization to perform exchange operations issued by the Tax Administration.

The decision on granting authorization to perform exchange operations (hereinafter referred to as the authorization), on the basis of a request, shall be issued by the Tax Authority when it determines that the applicant meets the following requirements:

- 1) That as a business entity is registered with the competent authority;
- 2) That it has concluded contract with a bank for exchange operations, which has no legal effect if a commercial entity has no authorization;
- 3) That the owner or founder of the business entity, or the general manager of the founder of the business entity and the employee who will directly perform exchange operations is not legally convicted of crimes against the economy, property, life and body, against public order and legal transactions;
- 4) That it has trained personnel, adept organization and technical equipment to perform exchange operations.

Trained personnel to carry out exchange operations means that employees who directly perform exchange operations in the business entity have at least high school education and a certificate for exchange operations, unless a business entity performs exchange operations based on a special law that governs its activity.

Adept organization means provision of adequate office space.

Having technical equipment means the provision of adequate equipment and information system that allows the performance of exchange operations in the prescribed manner.

Detailed requirements and manner of performing exchange operations shall be prescribed by the National Bank of Serbia.

In the event that the requirements for the issuance of authorization referred to in Paragraph 2 of this Article have not been fulfilled, Tax Authority shall issue a decision to refuse the issuance of authorization.

Tax Authority shall decide on the submitted request within 30 days of receipt of request with complete documentation.

Minister in charge of finance and economy shall prescribe in more detail the procedure and conditions for obtaining a certificate for performance of exchange operations, establish a unique training program for performance of exchange operations and conditions to be met by teachers who carry out training.

Certificate for exchange operations shall be issued by the Tax Authority, whereof it keeps the appropriate register.

Decision of the Tax Authority from Paragraphs 2 and 7 of this Article is final and against it no administrative litigation can be led.

Article 39a

The Tax Administration shall issue a decree revoking the authorization for exchange operations if it determines:

- 1) That the authorized exchange office ceases to fulfill the conditions for performance of exchange operations provided for in this Law and in a regulation of the National Bank of Serbia;
- 2) That the authorized exchange office does not start working within 30 days of receiving authorization to conduct exchange operations;
- 3) That the authorization was issued on the basis of false and inaccurate information;
- 4) That the authorized exchange office has not complied with an order to remedy irregularities or illegal acts described in a decree of the Tax Administration;
- 5) That the authorized exchange office submits a written request to the Tax Authority to cease performing exchange operations;
- 6) That the authorized exchange office fails to perform exchange operations for more than five working days without a justifiable cause.

The decree of the Tax Administration mentioned in Paragraph 1 of this Article is final, and no administrative litigation could be brought against it.

Tax Administration shall issue a decree temporarily forbidding performance of exchange operations on a controlled exchange post for a period of up to 30 working days if the authorized exchange office does not allow the tax inspector to inspect the books and other documents, or hinders the inspection of objects, rooms, or buildings, or does not allow the temporary seizure of effective foreign currency, checks and cash in dinars.

The decree of the Tax Administration referred to in Paragraph 3 of this Article may be appealed within 15 days of receiving the decision.

The appeal referred to in Paragraph 4 hereof shall not postpone the execution of the decree from Paragraph 3 of this Article.

Dinar Exchange Rate

Article 40

The dinar exchange rate against foreign currencies shall be established freely in the foreign currency market, in line with the foreign currency demand and supply.

Article 41

The official middle dinar exchange rate shall be formed in the manner determined by the regulation of the National Bank of Serbia.

The official middle dinar exchange rate shall be applied for the needs of bookkeeping and statistics.

The official middle dinar exchange rate, determined on the last business day in the week preceding the week in which the amount of customs and other import dues is determined, shall be applied for the calculation of customs and other import dues, in line with the law governing customs.

VII PROTECTIVE MEASURES

Article 42

In the event of serious disturbances in the balance of payments, when the movement of capital cause or threaten to cause serious difficulties in implementing monetary policy and exchange rate policies that result from excessive inflow or outflow of capital from the Republic, the Government at the proposal of the National Bank of Serbia may adopt some necessary protective measures in matters regulated by this law.

Protective measures from Paragraph 1 of this Article may be applied as long as the disturbances due to which they were adopted last, but for a maximum of six months from the date of their adoption.

Article 43

The National Bank of Serbia or the Government may introduce additional protective measures, if necessary, with a view to implementing sanctions of the United Nations or other international organizations, of which the Republic of Serbia is a member, these sanctions being imposed by the said organizations against other countries.

VIII FOREIGN CURRENCY SUPERVISION

Article 44

Activities referred to in the present Law shall be subject to foreign currency supervision.

Foreign currency supervision shall be conducted by supervision bodies - National Bank of Serbia, Tax Administration, customs authority, and/or other competent bodies that have the right to require, for the purpose of verification, all documentation on foreign currency operations, as well as other documentation needed for foreign currency supervision.

Article 45

The National Bank of Serbia shall supervise foreign currency transactions of banks, electronic money institutions headquartered in the Republic and payment institutions - in the procedures established by the law governing their operations.

The National Bank of Serbia shall supervise the international payment transactions performed by the public postal operator - in the procedure established by the law governing payment services.

Article 46

The Tax Administration shall conduct supervision of foreign currency operations of residents and non-residents and of exchange operations.

The Tax Administration shall conduct control of foreign currency operations of persons referred to in Article 45 of the present Law if such persons are connected to persons referred to in paragraph 1 of the present Article by property, management and business relations.

The tax inspector during the inspection may, with the issuance of the certificate, temporarily seize foreign currency, foreign currency cash, checks, securities, dinars, objects, documents and records, if there is reasonable suspicion that they were used during, or intended for, or originated from commission of a crime or violation.

Article 47

Customs authority shall conduct supervision of the taking out from the Republic and bringing into the Republic foreign cash, dinars, cheques and securities in passenger, commodity and mail transport.

Article 48

Customs authority at the customs border shall temporarily seize from residents and non-residents the amount of dinars, foreign cash, cheques and securities denominated in foreign currency exceeding the amount prescribed by the National Bank of Serbia, and shall issue an appropriate certificate.

Article 49

Supervision bodies shall be under obligation to cooperate in conducting foreign currency supervision and to make available all data, findings and information that they have and that are needed for foreign currency supervision, and when necessary, to engage other competent bodies.

Article 49a

The National Bank of Serbia shall determine the authenticity of foreign cash (foreign banknotes and coins) if there is doubt as to their authenticity.

The National Bank of Serbia shall prescribe the manner of handling of foreign cash which is suspected to be counterfeit.

It is prohibited to manufacture, sell, import or distribute, for resale or for other commercial purposes, medals and tokens that resemble foreign coins – euro.

The National Bank of Serbia shall prescribe the features whereby the similarity between the medals and tokens, and foreign coins – euro is determined.

Article 50

(Erased)

Article 51

(Erased)

Article 52

(Erased)

Article 52a

(Erased)

Article 53

(Erased)

Article 54

(Erased)

Article 55

Supervision bodies shall be under obligation to deposit foreign exchange, foreign cash, cheques and securities, temporarily seized under founded suspicion that a criminal act or offence has been committed, on the special-purpose account of the Tax Administration maintained with the National Bank of Serbia or in the storage of the National Bank of Serbia, whereas dinars shall be deposited on a special-purpose account of the Tax Administration maintained with the ministry in charge of finance, no later than two business days following the day of seizure.

Article 56

Funds generated from issuing permits for providing money transfer services in international payments, issuance of certificates for performance of exchange operations, charged costs of training for performance of exchange operations and other charged costs of administrative proceedings are revenue of the budget of the Republic.

X PENALTY PROVISIONS

1. Criminal Offence

Article 57

Any person buying from natural persons or selling them foreign cash and cheques denominated in foreign currency without the authorization of the Tax administration shall be punished for criminal offence by a prison sentence lasting from six months to five years.

Any attempt of committing the offence referred to in paragraph 1 of the present Article, shall be punished.

Article 58

Any person who effects collection and payment or issues a payment order, and/or executes to non-resident a transfer of amount exceeding EUR 100,000 on the basis of contract where no actual price is stated or on the basis of untrue document, shall be punished for criminal offence by a prison sentence lasting from one to ten years.

Any attempt of committing the offence referred to in paragraph 1 of the present Article shall be punished.

2. Offences

Article 59

A fine of 100,000 to 2,000,000 dinars shall be imposed on a resident - legal person, a branch of a foreign legal person, a bank and a non-resident - legal person:

- 1) If it fails to set off payables and receivables based on realized foreign trade of goods and services in a manner prescribed by the Government (Article 6, paragraphs 1 and 2);
- 2) If it fails to set off payables and receivables based on international credit facility operations in a manner prescribed by the National Bank of Serbia (Article 6, paragraph 3);
- 3) If it transfers, or pays, or collects a receivable or payable which did not originate on the basis of foreign trade of residents' goods and services (Article 7, paragraph 1);
- 4) If it fails to execute the activity referred to in Article 7 Paragraph 1 of this Law based on a contract, or if it does not provide notification on the executed transfer (Article 7, paragraph 2);

- 5) If the contract does not contain the data referred to in Article 7 Paragraph 3 of this Law;
- 6) If it transfers, or pays, or collects receivables or payables arising from realized foreign trade of goods and services of residents – a state owned company or a legal person with state capital or a legal person which is in the process of restructuring and privatization, contrary to Article 7 Paragraph 4 of this Act;
- 7) If it collects, pays, or issues a payment order, or performs a transfer to a non-resident, on the basis of a contract that does not specify the actual price, or on the basis of a false document (Article 8);
- 8) If it makes a payment and transfers capital on the basis of direct investments in contravention of Article 11 if this Act;
- 9) if it makes a payment for acquiring ownership of real estate abroad, or in the Republic contrary to the law governing property (Article 12, paragraph 1);
- 10) if it makes a payment for the purpose of purchase, or collection for the purpose of sale of foreign long-term debt securities in contravention of Article 13, Paragraphs 2 and 3 of this Act;
- 11) if it makes a payment for the purpose of purchase, or collection for the purpose of sale of long-term debt and equity securities in the Republic, contrary to the law governing the capital market (Article 14, paragraph 1);
- 12) If it makes a payment for the purpose of purchase, or collection for the purpose of sale of foreign short-term securities in foreign and domestic markets, contrary to the regulations of the National Bank of Serbia (Article 15, paragraph 1);
- 13) If it makes a payment for the purpose of purchase of foreign short-term securities (Article 15, paragraph 2);
- 14) If it makes a payment for the purpose of purchase of short-term securities in the Republic (Article 15, paragraph 3);
- 15) If it makes a payment, collection, transfer, offset, as well as reporting on transactions with financial derivatives, contrary to the terms and manner prescribed by the National Bank of Serbia (Article 16);
- 16) If it makes a payment or collection in respect of investments abroad contrary to the provisions of the law governing transactions with investment and voluntary pension funds (Article 17, paragraph 1);
- 17) If it makes a payment or collection in respect of investments in foreign investment funds in contravention of the Article 17, Paragraph 2 of this Act;
- 18) If it makes a payment or collection on the basis of an investment into investment funds and voluntary pension funds in the Republic contrary to the law governing the investment and voluntary pension funds (Article 17, paragraph 3);
- 19) If it concludes an international credit facility operation in contravention of Article 18, Paragraph 1 of this Act;

- 20) If it approves a credit facility or loan in dinars referred to in Article 18, Paragraph 2 of this Law contrary to the requirements and manner prescribed by the National Bank of Serbia (Article 18, paragraph 2);
- 21) If it gives bank guarantees, endorsements and other forms of surety in favor of a non-resident creditor under credit facilities taken by residents from abroad, obtains guarantees, sureties and other forms of collateral from a non-resident under credit facilities that it approved to non-residents, and gives guarantees, endorsements and other forms of surety under credit facility transactions between two non-residents abroad in contravention of Article 18 Paragraph 3 of this Act;
- 22) If it participates in a syndicated financial credit facility or loan contrary to Article 18, Paragraph 4 of this Act;
- 23) If it buys a receivable from a non-resident - participant in a syndicated financial credit facility or loan that a group of foreign creditors approves to a debtor, contrary to the requirements of Article 18, Paragraph 4 of this Law (Article 18, paragraph 5);
- 24) If it acts contrary to Article 18, Paragraph 6 of this Law;
- 25) If it acts contrary to Article 18 Paragraph 7 of this Act;
- 26) If it performs international credit facility operations or transfers, or pays, or collects a receivable or a payable under such transactions contrary to the provisions of a special law (Article 18, paragraph 8);
- 27) If it acts contrary to Article 18, Paragraph 10 of this Act;
- 28) If it acts contrary to Article 18 Paragraph 11 this Act;
- 29) If it concludes an international credit facility transaction contrary to Article 19 this Act;
- 30) If it does not perform the activity referred to in Article 20, Paragraph 1 of this Law on the basis of a contract, or does not provide information on the executed transfer (Article 20, paragraph 2);
- 31) If a contract does not contain the data referred to in Article 20 Paragraph 3 of this Act;
- 32) If it transfers, or pays, or collects receivables or payables arising from an international credit facility operation or a resident – state owned company, or a legal person with state capital, or a legal person that is in the process of restructuring and privatization, contrary to Article 20 Paragraph 4 this Act;
- 33) If it uses a financial credit facility taken abroad contrary to Article 21 Paragraph 1 of this Act;
- 34) If it uses a financial credit facility taken abroad contrary to a regulation of the National Bank of Serbia prescribing the purposes, terms and conditions of taking of these credit facilities (Article 21, paragraph 2);

- 35) If it takes a short-term bank time deposit and a short-term bank line of credit from a foreign bank in contravention of Article 22 of this Act;
- 36) If it approves a financial loan to a non-resident in contravention of Article 23 Paragraph 1 of this Act;
- 37) If it issues a surety or other form of collateral under a credit facility transaction between two non-residents abroad under conditions contrary to Article 23, Paragraph 1 of this Law (Article 23, paragraph 2);
- 38) If it performs the activities referred to in Article 23, Paragraphs 1 and 2 of this Law without a consent of the Government (Article 23, paragraph 3);
- 39) If it fails to contract and obtain from a non-resident payment security instruments when performing credit facility operations referred to in Article 23, Paragraphs 1 and 2 of this Law (Article 23, paragraph 4);
- 40) If it fails to comply with Article 23 Paragraph 5 of this Act;
- 41) If it acts contrary to Article 23 Paragraph 6 of this Act;
- 42) If it fails to notify the National Bank of Serbia on an international credit facility operation in the manner and within the time period prescribed by the National Bank of Serbia (Article 24);
- 43) If approves a credit facility in foreign currency contrary to Article 25 of this Act;
- 44) If it performs the guarantee operations referred to in Article 26, Paragraph 1 of this Law in contravention of banking regulations;
- 45) If it obtains from a non-resident guarantees and sureties of non-residents under receivables in the Republic arising from international credit facilities for which the state assumed the obligation to repay abroad (Article 26, paragraph 2);
- 46) If the performs guarantee transactions contrary to the provisions of a special law (Article 26, paragraph 3);
- 47) If it issues a surety to a non-resident contrary to Article 26 Paragraph 4 of this Act;
- 48) If it issues a surety to a non-resident contrary to a Government's regulation (Article 26, paragraph 5);
- 49) If it obtains a guarantee or a surety of a non-resident in contravention of Article 26 Paragraph 6 of this Act;
- 50) If it keeps foreign currency in a bank account abroad contrary to a regulation of the National Bank of Serbia (Article 27, paragraph 2);
- 51) If it keeps foreign currency and dinars in a bank account contrary to this Law (Article 28, paragraph 1);
- 52) If it fails to comply with a regulation of the National Bank of Serbia (Article 28, paragraph 2);

- 53) If a person referred to in Article 29 Paragraph 1 of this law performs a transfer of funds from a non-resident account or a resident account in a foreign country, contrary to Article 29 Paragraph 1 of this Act;
- 54) If it executes payment for the purpose of depositing and investing abroad contrary to a law governing insurance (Article 30, paragraph 1);
- 55) If it executes payment of insurance premium under insurance contract concluded with a non-resident - insurance company, which is not allowed by a law governing insurance (Article 30, paragraph 2);
- 56) If it fails to comply with a regulation of the National Bank of Serbia which regulates the detailed requirements for personal and physical transfers of means of payment to and from abroad (Article 31);
- 57) If it performs international payment transactions in contravention of Article 32, Paragraphs 1 and 2 of this Act;
- 58) If it does not execute foreign payment transactions through the National Bank of Serbia (Article 32, paragraph 4);
- 59) If it executes payment transactions under international credit facility operations in contravention of Article 32, Paragraphs 5 and 6 of this Act;
- 60) If it executes international payment transactions under current and capital transactions contrary to a regulation of the National Bank of Serbia (Article 32, paragraph 8);
- 61) If it executes a collection, or payment to another non-resident and not to a non-resident to whom it owes, or from who it claims, under a current or a capital transaction that is not permitted by this Law (Article 33, paragraph 1);
- 62) If it acts contrary to Article 33 Paragraph 2 of this Act;
- 63) If it fails to perform activities referred to in Article 33, Paragraphs 1 and 2 of this Law on the basis of a contract or a statement (Article 33, paragraph 3);
- 64) If a contract or a statement does not contain the data referred to in Article 33, Paragraph 4 of this Act;
- 65) If it executes collection or payment to another non-resident contrary to Article 33 Paragraph 5 of this Act;
- 66) If it fails to notify the National Bank of Serbia on the changes in the international credit facility operations referred to in Article 33, Paragraphs 1 and 2 of this Law, in accordance with a regulation adopted pursuant to Article 24 of this Law (Article 33, paragraph 6);
- 67) If it executes payment, collection and transfer in the Republic contrary to Article 34 of this Act;
- 68) If it executes payment, collection, deposit or withdrawal in foreign cash contrary to a regulation of the National Bank of Serbia (Article 34, paragraph 9);

- 69) If it fails to keep foreign currency in a bank, or in the National Bank of Serbia (Article 35, paragraph 1);
- 70) If it fails to keep foreign currency on a foreign currency account with a bank or if it does not sell the foreign currency to a bank (Article 35, paragraph 2);
- 71) If it fails to comply with a regulation of the National Bank of Serbia (Article 35, paragraph 3);
- 72) (*deleted*)
- 73) If it fails to keep the foreign exchange accounts at the Treasury within the consolidated treasury account system held with the National Bank of Serbia (Article 36, paragraph 1);
- 74) If it acts contrary to Article 36, Paragraph 2 of this Act;
- 75) If it fails to comply with the prescribed obligation to report (Article 37, paragraph 1);
- 76) If it purchases or sells foreign currency and foreign cash outside the foreign currency market (Article 38, paragraph 1);
- 77) If it fails to comply with a regulation of the National Bank of Serbia (Article 38, paragraph 4);
- 78) If it fails to comply with a regulation of the National Bank of Serbia (Article 39, paragraph 6);
- 79) If it fails to apply the official middle exchange rate for accounting and statistics purposes (Article 41, paragraph 2);
- 80) If, for the purpose of calculation of customs duties and other import duties, it fails to apply the official middle exchange rate determined on the last working day of the week preceding the week in which the amount of customs duties and other import taxes is to be determined in accordance with the law governing the customs duties (Article 41, paragraph 3);
- 81) If it acts contrary to the measures referred to in Article 42 of this Act;
- 82) If it acts contrary to the measures referred to in Article 43 of this Act;
- 83) If it fails to issue a receipt at the border crossing for temporarily seized dinars and foreign cash, checks and securities denominated in foreign currency, in excess of the amount prescribed by the National Bank of Serbia (Article 48);
- 84) If it acts contrary to Article 49a, paragraph 3 of this Act;
- 85) If it fails deposit to the temporarily seized foreign currency, foreign cash, dinars, checks and securities in a dedicated account of the Tax Administration held with the National Bank of Serbia, or if it fails to put them in storage at the National Bank of Serbia within two working days of their seizure (Article 55).

For the acts referred to in Paragraph 1 of this Article the responsible person in the resident - legal person or non-resident, responsible person in a bank shall be punished for a misdemeanor with a fine of 5,000 to 150,000 dinars.

For the acts referred to in Paragraph 1 of this Article the responsible person in the resident from Article 36 Paragraph 1 of this law shall be punished for a misdemeanor with a fine of 5,000 to 150,000 dinars.

For the acts referred to in Paragraph 1 of this Article the responsible person in the resident - the branch of a foreign legal person shall be punished for a misdemeanor with a fine of 5,000 to 150,000 dinars.

Article 60

(Erased)

Article 61

A fine of 10,000 to 500,000 dinars shall be imposed on a resident - an entrepreneur if:

- 1) He/she fails to set off payables and receivables based on realized foreign trade of goods and services in a manner prescribed by the Government (Article 6, paragraphs 1 and 2);
- 2) He/she does not set off payables and receivables from international credit facility operations in a manner prescribed by the National Bank of Serbia (Article 6, paragraph 3);
- 3) He/she transfers, buys or sells, or pays, or collects a receivable or a payable that did not originate under residents' foreign trade of goods and services (Article 7, paragraph 1);
- 4) He/she fails to execute the activity on the basis of a contract referred to in Article 7 Paragraph 1 of this Law, or does not provide notification on executed transfer (Article 7, paragraph 2);
- 5) A contract does not contain the data referred to in Article 7 Paragraph 3 of this Act;
- 6) He/she makes a payment, collection or issues a payment order, or executes a transfer to a non-resident on the basis of a contract which does not specify the actual price, or on the basis of a false document (Article 8);
- 7) He/she makes a payment and transfer of capital on the basis of direct investments abroad contrary to the law governing foreign trade (Article 11, paragraph 1);
- 8) He/she makes a payment for acquiring ownership of real estate abroad, contrary to the law governing property (Article 12, paragraph 1);
- 9) He/she makes a payment for the purpose of purchase or collection for the purpose of sale of foreign long-term debt securities in contravention of Article 13, Paragraphs 2 and 3 of this Act;

- 10) He/she makes a payment for the purpose of purchase of foreign short-term securities (Article 15, Paragraph 2);
- 11) He/she makes a payment, collection, transfer, set off, and reporting on transactions with financial derivatives contrary to the requirements and manner prescribed by the National Bank of Serbia (Article 16);
- 12) He/she makes a payment or collection based on investment into foreign investment funds in contravention of Article 17 Paragraph 2 of this Act;
- 13) He/she concludes an international credit facility transaction in contravention of Article 18 Paragraph 1 of this Act;
- 14) He/she acts contrary to Article 18 Paragraph 9 of this Act;
- 15) He/she acts contrary to Article 18 Paragraph 10 of this Act;
- 16) He/she concludes an international credit facility contract contrary to Article 19 of this Act;
- 17) He/she fails to perform the activity referred to in Article 20 Paragraph 1 on the basis of a contract, or does not provide notification on the executed transfer (Article 20, paragraph 2);
- 18) A contract does not contain the data specified in Article 20 Paragraph 3 of this Act;
- 19) He/she uses a financial credit facility taken abroad contrary to the Article 21, Paragraph 1 of this Law (Article 21, paragraph 1);
- 20) He/she uses a financial credit facility taken abroad contrary to a regulation of the National Bank of Serbia which determines the purposes, manner and requirements for taking these credit facilities (Article 21, paragraph 2);
- 21) He/she fails to notify the National Bank of Serbia on an international credit facility operation in the manner and within the time period prescribed by the National Bank of Serbia (Article 24);
- 22) He/she holds foreign currency in a bank account abroad contrary to the regulations of the National Bank of Serbia (Article 27, paragraph 2);
- 23) He/she pays a insurance premium under an insurance contract concluded with a non-resident - an insurance company, which is not allowed by the law governing insurance (Article 30, paragraph 2);
- 24) He/she carries out international payment transactions in contravention of Article 32, Paragraphs 1, 2, 5 and 6 of this Act;
- 25) He/she executes international payment transaction under current and capital transactions contrary to a regulation of the National Bank of Serbia (Article 32, paragraph 8);

- 26) He/she collects from, or pays to some other non-resident and not to a non-resident who he/she owes to, or from who he claims payment, under current or capital transactions that is not permitted under this Law (Article 33, paragraph 1);
- 27) He/she acts contrary to Article 33 Paragraph 2 of this Act;
- 28) He/she fails to conduct the activities referred to in Article 33, Paragraphs 1 and 2 hereof on the basis of a contract or a statement (Article 33, paragraph 3);
- 29) A contract or a statement does not contain the data referred to in Article 33 Paragraph 4 of this Act;
- 30) He/she fails to notify the National Bank of Serbia, in accordance with a regulation adopted pursuant to Article 24 of this Law, on changes in the international credit facility operations referred to in Article 33, Paragraphs 1 and 2 of this Law (Article 33, paragraph 6);
- 31) He/she executes payment, collection and transfer in the Republic contrary to Article 34 of this Act;
- 32) He/she executes payment, collection, deposit and disbursement in foreign cash contrary to a regulation of the National Bank of Serbia (Article 34, paragraph 9);
- 33) He/she fails to keep foreign currency in a foreign currency account at a bank, or does not sell it to a bank (Article 35, paragraph 2);
- 34) He/she fails to comply with the prescribed obligation to report (Article 37, paragraph 1);
- 35) He/she buys or sells foreign currency and foreign cash outside the foreign currency market (Article 38 paragraph 1);
- 36) He/she fails to comply with a regulation of the National Bank of Serbia (Article 39, paragraph 6);
- 37) He/she fails to apply the official middle exchange rate of dinar for accounting and statistics purposes (Article 41, paragraph 2);
- 38) He/she acts contrary to the measures referred to in Article 42 of this Act;
- 39) He/she acts contrary to the measures referred to in Article 43 of this Act;
- 40) He/she acts contrary to Article 49a, Paragraph 3 of this law.

Article 62

A fine of 5,000 to 150,000 dinars shall be imposed on a resident – a natural person if:

- 1) He/she performs a set-off of payables and receivables based on realized foreign trade of goods and services (Article 6, paragraph 1);
- 2) He/she performs a set-off of payables and receivables based on an international credit facility operation (Article 6, paragraph 3);

- 3) He/she acts contrary to Article 7 Paragraph 1 of this Act;
- 4) He/she collects, pays, or issues a payment order, or transfers on the basis of a contract that does not specify the actual price or on the basis of false documents (Article 8);
- 5) He/she makes a payment and transfer of capital based on some direct investments abroad contrary to the law governing foreign trade (Article 11, paragraph 1);
- 6) He/she makes a payment for the purpose of acquiring ownership of real estate abroad contrary to the law governing property (Article 12, paragraph 1);
- 7) He/she makes a payment for the purpose of purchase, or collection for the purpose of sale of foreign long-term debt securities in contravention of Article 13, Paragraphs 2 and 3 of this Act;
- 8) He/she makes a payment for the purpose of purchase of foreign short-term securities (Article 15, paragraph 2);
- 9) He/she makes a payment, collection, transfer, set off, and reports on the bases of transactions with financial derivatives, contrary to the terms and manner prescribed by the National Bank of Serbia (Article 16);
- 10) He/she makes a payment or collection based on investments into foreign investment funds in contravention of Article 17 Paragraph 2 this Act;
- 11) He/she concludes an international credit facility transaction in contravention of Article 18 Paragraph 1 of this Act;
- 12) He/she acts contrary to Article 18 Paragraph 10 of this Act;
- 13) He/she acts contrary to Article 18 Paragraph 11 of this Act;
- 14) He/she acts contrary to Article 20 Paragraph 1 of this Act;
- 15) He/she fails to notify the National Bank of Serbia on the international credit facility operation in accordance with a regulation adopted pursuant to Article 24 of this Law (Article 24);
- 16) He/she holds foreign currency in a bank account abroad contrary to the regulations of the National Bank of Serbia (Article 27, paragraph 2);
- 17) He/she pays insurance premiums under an insurance contract concluded with a non-resident – an insurance company, which is not allowed by the law governing insurance (Article 30, paragraph 2);
- 18) He/she fails to comply with a regulation of the National Bank of Serbia which regulates the detailed requirements for personal and physical transfers of means of payment to and from abroad (Article 31);
- 19) He/she conducts international payment transactions in contravention of Article 32, Paragraphs 1, 2 and 5 of this Act;

- 20) He/she executes international payment transactions under current and capital transactions contrary to a regulation of the National Bank of Serbia (Article 32, paragraph 8);
- 21) He/she collects from, or pays to some other non-resident and to a non-resident who is owed to, or claimed from, under a current or capital transaction not permitted by this Law (Article 33, paragraph 1);
- 22) He/she fails to perform the activities referred to in Article 33 Paragraph 1 hereof on the basis of a contract or a statement (Article 33, paragraph 3);
- 23) A contract or a statement does not contain the data referred to in Article 33 Paragraph 4 of this Act;
- 24) He/she does not notify the National Bank of Serbia about the changes in the international credit facility operations referred to in Article 33 Paragraph 1 of this Law, in accordance a regulation adopted pursuant to Article 24 of this Law (Article 33, paragraph 6);
- 25) He/she executes payment, collection and transfer in the Republic contrary to Article 34 of this Act;
- 26) He/she executes payment, collection, deposit and disbursement in foreign cash contrary to a regulation of the National Bank of Serbia (Article 34, paragraph 9);
- 27) He/she fails to comply with the prescribed obligation to report (Article 37, paragraph 1);
- 28) He/she buys or sells the foreign currency and foreign cash outside the foreign currency market (Article 38 paragraph 1);
- 29) He/she acts contrary to the measures referred to in Article 42 of this Act;
- 30) He/she acts contrary to Article 49a, paragraph 3 of this Law.

Article 62a

A misdemeanor fine of 100,000 to 2,000,000 dinars shall be imposed on an electronic money issuer headquartered in the Republic of Serbia, or on a payment institution and a public postal operator if international payment transactions were carried out in contravention of Article 32 of this law.

A misdemeanor fine of 5,000 to 150,000 dinars shall be imposed on the responsible official in the legal person referred to in paragraph 1 of this Article for the action referred to in that paragraph.

Article 63

A fine of 5,000 to 150,000 dinars shall be imposed on a non-resident - natural person if:

- 1) He/she fails to perform the activities referred to in Article 7 Paragraph 1 of this law on the basis of a contract, or fails to provide notification on the executed transfer (Article 7, paragraph 2);

- 2) A contract does not contain the information specified in Article 7 Paragraph 3 of this Act;
- 3) He/she makes a payment and transfer of capital on the basis of direct investments in the Republic contrary to the law governing foreign investments (Article 11, paragraph 2);
- 4) He/she makes a payment for purchase of shares in the capital of a resident legal person that is not considered to be a direct investment, contrary to the law governing companies (Article 11a, paragraph 2);
- 5) He/she makes a payment for acquiring ownership of real estate in the Republic contrary to the law governing property (Article 12, paragraph 1);
- 6) He/she makes a payment for the purchase of long-term, as well as equity securities in the Republic, contrary to the law governing the capital market (Article 14, paragraph 1);
- 7) He/she makes a payment for the purchase of domestic short-term securities (Article 15, paragraph 3);
- 8) He/she makes a payment for the purpose of investing into investment funds and voluntary pension funds in the Republic contrary to the law governing the investment and pension funds (Article 17, paragraph 3);
- 9) He/she executes an international credit facility transaction in foreign currency contrary to Article 18 Paragraph 1 of this Act;
- 10) He/she fails to perform the activity referred to in Article 20 Paragraph 1 of this law based on a contract, or fails to provide notification on the executed transfer (Article 20, paragraph 2);
- 11) A contract does not contain the data referred to in Article 20 Paragraph 3 of this Act;
- 12) He/she keeps foreign currency and dinars in a bank account contrary to this Law (Article 28, paragraph 1);
- 13) A person referred to in Article 29 Paragraph 1 of this Law transfers abroad funds from a non-resident or resident account, contrary to Article 29 Paragraph 1 of this Act;
- 14) He/she fails to comply with a regulation of the National Bank of Serbia which specifies the detailed requirements for personal and physical transfers of means of payment to and from abroad (Article 31);
- 15) He/she executes payment, collection and transfer in the Republic contrary to Article 34 of this Act;
- 16) He/she executes payment, collection, deposit and disbursement in foreign cash contrary to a regulation of the National Bank of Serbia (Article 34, paragraph 9);
- 17) He/she buys and sells foreign currency and foreign cash outside the foreign currency market (Article 38 paragraph 1);

18) He/she acts contrary to the measures referred to in Article 42 of this Act;

19) He/she acts contrary to Article 49a, Paragraph 3 of this Law.

Article 64

With respect to offences referred to in Articles 59 - 63 of the present Law, in addition to a fine, a protective measure of seizing the items used in or intended for the perpetration of offence, or generated by the perpetration of offence, shall be pronounced.

By way of exception to paragraph 1 of the present Article, partial seizure of items used in or intended for the perpetration of offence, or generated by the perpetration of offence, may be executed, when the motives or other circumstances under which the offence was committed point to the conclusion that the seizure of item in its entirety is not justified.

Protective measure referred to in Paragraph 1 of this Article may be imposed even if the sentence for a misdemeanor has not been ruled, if the procedure for misdemeanors may not be conducted because the offender was unreachable or unknown to the body responsible for conducting the proceedings, or if the offender at the time of the committed misdemeanor was minor, or due to existence of other legal obstacles.

Article 65

Should a period of five years from the day of the perpetration of offence elapse, proceedings in respect of offences referred to in the present Law cannot be instituted.

Article 66

Fines, benefits in terms of ownership, means of payment, and the dinar equivalent arrived at through the sale of items used in or intended for the perpetration of criminal offence or offence, or generated by the perpetration of criminal offence or offence, shall be paid to the budget of the Republic.

Foreign cash seized as the item of the perpetration of criminal offence or offence may be sold to the National Bank of Serbia, which shall pay the dinar equivalent of such cash to the budget of the Republic.

XI TRANSITIONAL AND FINAL PROVISIONS

Article 67

Offence procedures launched before the effectiveness of the present Law shall be resolved according to the provisions of the present Law, should that be more favourable for the perpetrator.

Article 68

Regulations pertaining to the execution of the present Law shall be issued no later than six months following the entry into force of the present Law.

Until the enactment of regulations referred to in Paragraph 1 of the present Article, regulations issued on the basis of Foreign Currency Law ("Official Gazzete of the FRY",

no. 23/02 and 34/02), Law on International Credit facility Operations ("Official Gazette of the FRY", no. 42/92, 24/94, 28/96 and 21/99), as well as Decision on Keeping Records of Concluded Foreign Trade Transactions ("Official Gazette of the FRY", no. 74 /00), shall be applied.

Article 69

As of the effectiveness of the present Law, Foreign Currency Law ("Official Gazette of the FRY", no. 23/02 and 34/02) and Law on International Credit facility Operations ("Official Gazette of the FRY", no. 42/92, 24/94, 28/96 and 21/99) shall cease to be valid.

Article 70

The present Law shall enter into force on the eighth day following its publication in the "Official Herald of the Republic of Serbia".

Independent Articles of the Law on amendments to the Law On Foreign Currency Transactions

("Official Herald of the RS", No. 31/2011)

Article 35

From 1st January 2012 the Foreign Currency Inspectorate shall take over the tasks of issuing and revoking of authorizations to conduct exchange operations and activities of control of exchange operations, and shall take over employees of the National Bank of Serbia who have been, on 31st December 2011, performing activities in connection with the issuance and revocation of authorizations to conduct exchange operations and activities of control of exchange operations, as well as operational documents, equipment and other objects used to perform these duties.

Minister in charge of finance affairs and the Governor of the National Bank of Serbia shall conclude an agreement which shall regulate, in more detail, the matters or takeover referred to in Paragraph 1 of this Article, as well as issues related to the use of office space in which the activities referred to in that Paragraph are to be performed.

Procedures for issuing and revoking of authorization to conduct exchange operations, as well as the activities of control of exchange operations, initiated by the National Bank of Serbia, which were not completed until 31st December 2011, shall be completed by the Foreign Currency Inspectorate in accordance with this law.

Residents - legal entities and entrepreneurs to whom the decree on issuance of authorization to conduct exchange operations has been issued prior to 31st December 2011 shall continue to work on the basis of that decree, in accordance with the provisions of this Law.

By-laws for implementation of this law from Articles 2, 4, 5, 6, 7, 9, 10, 11, 13, 15, 16 and 17 shall be enacted within six months from the date of this law's entry into force, except the by-laws from Articles 18 and 19 of this law, which shall be enacted by 31st December 2011.

Until the beginning of implementation of by-laws from Paragraph 5 of this Article, the regulations adopted pursuant to the Law on Foreign Currency Transactions ("Official Herald of the RS", No. 62/06) shall apply unless inconsistent with the provisions of this law.

The provisions of the regulations from Article 2 Paragraph 2 of this law shall apply on foreign credit facility transactions from Art. 4 and 5 of the Law on Foreign Currency Transactions ("Official Herald of the RS", No. 62/06) which have been filed in accordance with the provisions of Article 4 Paragraph 4 and Article 5 Paragraph 4 of the Law on Foreign Currency Transactions ("Official Herald of the RS", No. 62/06), but whose realization has not been completed before entry into force of regulations from the Article 2 Paragraph 2 of this law.

Misdemeanor proceedings commenced before this law's entry into force shall be completed under the provisions of this law, if that is more favorable for the offender.

The rights from the individual acts obtained on the basis of the Law on Foreign Currency Transactions ("Official Herald of the RS", No. 62/06) shall be realized within the deadlines laid down in those individual acts.

Article 36

This Law shall enter into force on the eight day after its publication in the "Official Herald of the Republic of Serbia", except that the provisions of Art. 18, 19, 21, 22, 23, 26 and 27 of this law, in part related to exchange operations, Article 28 of this law, in part related to the newly proposed Article 59 Paragraph 1 Items 81) and 82), and Article 30 of this law, in part related to the newly proposed Article 61 Items 37) and 38), shall apply from 1st January 2012, while the provisions from Article 59 Paragraph 1 Item 70) and Article 61 Item 36) of the Law on Foreign Currency Transactions ("Official Herald of the RS", No. 62/06) shall apply until 31st December 2011.

Independent Articles of the Law amending the
Law On Foreign Currency Transactions

("Official Herald of the RS", No. 119/2012)

Article 37

Regulations under Articles 4, 17, 18, 24 and 29 of this Law shall be adopted within six months from the date of entry into force of this Law.

Until the implementation of the regulations referred to in paragraph 1 this Article, the regulations issued pursuant to the Law on foreign currency transactions ("Official Herald of RS", No. 62/06 and 31/11) shall apply, unless they are inconsistent with the provisions of this Law.

Article 38

Upon the entry into force of this Law, the Regulation on detailed conditions and manner of transfer of receivables and payables originating from residents' foreign trade activities ("Official Herald of RS", No. 112/06), Regulation on detailed conditions and

manner of collection, or payment to some other non-resident under current or capital transaction ("Official Herald of RS", No. 112/06) and the Decision on the manner and time periods in which banks report to the National Bank of Serbia on the transactions of purchase or sale, or payment or collection of receivables and payables under residents' foreign trade activities ("Official Herald of RS", No. 16/07).

Article 39

This Law shall enter into force on the eight day following its publication in the "Official Herald of the Republic of Serbia".

Independent Article of the Law Amending the
Law on Foreign Currency Transactions

("Official Herald of the RS", No. 139/2014)

Article 7

This law shall be published in the "Official Herald of the Republic of Serbia" and shall enter into force on the October 1st 2015.

- regulation published in „Official Herald of the RS”, Nos 62/2006 from 19th July 2006, entered into force on 27th July 2006
- last correction published in „Official Herald of the RS”, Nos 139/2014 from 18th December 2014, entered into force on 1st October 2015

AKTIVA sistem doo, Novi Sad



Osnivanje preduzeća i radnji | Računovodstvena agencija | Poresko savetovanje



Propisi besplatno www.aktivasistem.com Obrasci besplatno

Misija, vizija, cilj

Profesionalnim pružanjem usluga najvišeg nivoa iz oblasti administrativno - ekonomsko - finansijsko - pravnog segmenta poslovanja, od osnivanja firme pa tokom celog njenog postojanja, na ekonomičan način omogućiti mikro i malim preduzećima i preduzetnicima da se u celosti posvete svojoj osnovnoj delatnosti, a administraciju da sa poverenjem prepuste Agenciji.
