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# **LAW ON FOREIGN EXCHANGE OPERATIONS OF REPUBLIKA SRPSKA**

– unofficial consolidated text –

## **I - GENERAL PROVISIONS**

### **Article 1**

This Law governs payments and collection between residents and non-residents, means of payment, payments and collection between residents in foreign means of payment, purchase and sale of means of payment, physical transfer of means of payment, resident and non-resident accounts and other foreign exchange transactions in Republika Srpska (hereafter: the RS).

Payments, collection, transfers, purchase and sale under paragraph 1 above shall be carried in accordance with this Law, fair business practices and business ethics.

Payments, collection, transfers, purchase and sale under paragraph 1 above shall be subject to foreign exchange supervision, where the authorities shall be entitled to require all documents relevant to the payments, collection, transfers, purchase and sale and other documents necessary for foreign exchange supervision with a view to checking them.

### **Article 2**

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

1. Residents are:

1) legal persons registered in Bosnia and Herzegovina (hereafter: legal persons), except their representative offices located outside Bosnia and Herzegovina;

2) branches/subsidiaries of foreign legal persons entered into the register with the competent authority in Bosnia and Herzegovina;

3) entrepreneurs – self-employed individuals pursuing legally allowed activities for the purpose of making profit and registered with the competent authority (hereafter: entrepreneurs);

4) natural persons with a domicile in Bosnia and Herzegovina, except for natural persons with temporary residence abroad for over a year;

5) natural persons - foreign citizen residing in Bosnia and Herzegovina on the basis of permanent residence permit and/or work permit for more than 183 days except diplomatic and consular officers, including their family members,

6) state bodies and organizations, diplomatic offices abroad, citizens employed in these offices and their family members as well.

2. Non-residents are:

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

3. Authorized Bank and Bank

An authorized bank and a bank are legal persons established and operated in accordance with the legislation on banking, which are licensed by the Banking Agency of the Republika Srpska (hereafter: the Agency).

4. Central Bank of Bosnia and Herzegovina

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

5. Means of Payment

Means of payment are convertible marks, domestic securities and foreign means of payment.

Domestic securities are securities issued by a resident.

Foreign means of payment are foreign exchange, effective foreign currency and foreign securities, which are defined as follows:

1) foreign exchange - claims abroad denominated in foreign currency;

2) effective foreign exchange - claims in cash, and/or banknotes and coins denominated in foreign currency;

3) foreign securities - foreign securities denominated in foreign currency and issued by non-residents.

6. Domestic currency

Convertible mark (BAM) shall be the national currency and legal tender for payment of all public and private liabilities and debts in Bosnia and Herzegovina.

7. Payment instruments

Payment instruments shall include letters of credit, remittances, payment cards, bills of exchange, cheques and other banking and financial instruments payable in foreign currency.

## 8. Foreign Exchange Market

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

## 9. Currency exchange operations

Exchange operations shall be the activities of purchase and sale of effective foreign currencies/foreign currency cash and cheques denominated and payable in foreign currency, from and to natural persons.

## 10. Current transactions

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

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

- 1) all payments due in connection with foreign trade and other current businesses abroad, including services;
- 2) payments due as interest on loans and as net income from other investments;
3. payments of a due portion of principal, withdrawal of direct investments and transfer of profit based on direct investments;
4. transfers to natural persons in connection with remittances from workers abroad, pensions, disability allowances and other social benefits, transfers based on taxes, fees, interstate cooperation, settlement of insurance claims and lottery gains, payment of final and binding court awards, compensations for concessions, membership fees and fines (penalties) and reasonable remittances for maintenance and support of family.

## 11. Capital transactions

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

Capital transactions under paragraph 1 above shall include:

- direct investments;
- investments in real estate;
- securities transactions in the capital market;
- securities transactions in the money market;
- transactions with investment funds;

- credit transactions;
- deposit transactions;
- sureties and guarantees;
- transactions related to insurance contracts in accordance with the legislation governing insurance;
- unilateral transfers of means of payment (personal and physical).

## 12. Direct investments

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

Establishing a permanent economic relationship and gaining considerable control over the managing of a legal person shall mean:

- a) the establishment of or an increase in the registered capital of a company fully owned by the investor, the establishment of a branch office or acquisition of an already existing company into full ownership of an investor or investment for the purpose of performing the activities of an entrepreneur;
- b) investment into a new or an existing company, provided that the investor thereby acquires the total of 10% or more stake in the registered capital of a company, or more than 10% voting rights, following the fulfilment of conditions under paragraph 1 above;
- c) loans with a maturity of five years or more, granted for the purpose of establishing a permanent economic relationship, provided that such loans can be classified as subordinate claims (subordinate credits).

## 13. Securities transactions

Securities transactions shall include transactions in the capital market and the money market and transactions with investment funds that are not transactions in terms of direct investments.

For the purpose of this Law, securities traded in the capital market shall include shares, bonds and other debt securities with maturity longer than one year.

For the purpose of this Law, securities traded in the money market shall include securities issued in series, with maturity up to one year, such as treasury bills, commercial bills and certificates of deposit and banker's acceptances.

## 14. Credit transactions

- 1) Credit transactions (credits and loans) shall include legal transactions between residents and non-residents concluded in foreign exchange in accordance with the law;
- 2) for the purpose of this law, credit transactions shall include commercial and financial loans and they shall also include sureties and guarantees;
- 3) for the purpose of this law, commercial loans shall include deferred payments, or advance payments for goods and services or bank funding for deferred and advance payments. Commercial loans shall also include transactions involving purchases of receivables (factoring and forfeiting), provided that the underlying transaction from which the receivable arises can be characterized as a commercial loan.
4. Financial loans for deferred and advance payments by a debtor under subparagraph 3 for the funding of goods and services trade with foreign countries, i.e. settlement of liabilities on behalf of the debtor directly to the supplier of goods/provider of services in foreign trade,
- 5) for the purpose of this Law, financial loans shall include all loans except loans under paragraph 12, sub-paragraph c) and sub-paragraph 3 above;
- 6) financial loans under sub-paragraph 5) above shall include all types of financing with underlying commercial transactions (trade in commodities and provision of services), where a resident is not a contracting party;
- 7) loans shall be transactions between a resident and non-resident, where a resident takes a loan from or gives a loan to a non-resident in accordance with provisions of this Law and the law governing obligations (contracts and torts).
- 8) for the purpose of this Law, guaranties shall be considered banker's guaranties given by banks on behalf of non-residents in international credit transactions and credit transactions between two non-residents abroad.
- 9) for the purpose of this Law, sureties shall be sureties and other means of security which, in accordance with this Law, resident legal persons give on behalf of non-resident supplier of loan, in international credit transactions and credit transactions between two non-residents abroad.

#### 15. Deposit transactions

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

#### 16. Transactions based on insurance contracts

Transactions based on insurance contract shall include payments of premiums and sums insured on the basis of contract concluded between a non-resident insurance company and resident as the insured, as well as between the resident insurance company and non-resident as the insured, in line with the law governing insurance.

#### 17. Unilateral transfers of means of payment

Unilateral transfers of means of payment shall include transfers from the RS abroad or from abroad to the RS, which are based on a business dealing finished, between resident and non-resident natural persons and which may be personal and physical transfers.

Personal transfers of means of payment from and into the RS shall include gifts and grants, inheritance, fixed income, settlement of immigrants' debts in the country of origin, transfer of immigrants' means of payment abroad.

Physical transfers shall include any transfer of cash in convertible marks, effective foreign currency and securities from and into the RS.

## **II – BASIC PROVISIONS**

### **Payments, Collection and Transfers in Foreign Means of Payment**

#### **Article 3**

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

As an exception to paragraph 1 above, the Government may prescribe conditions under which residents and non-residents may make payments abroad in effective foreign currency.

#### **Article 4**

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

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

- 1) a foreign currency loan granted in the RS in accordance with this Law,
- 2) repayment of foreign currency loan in the RS,
- 3) payments of premiums and insurance claims on the basis of contracts concluded with non-residents and residents involved in investment construction or performing economic activities abroad,
- 4) sale and purchase of goods from consignment warehouses, in free zones and duty free shops,
- 5) sale and purchase of securities denominated in foreign currency,

- 6) payment of effective foreign currency from foreign currency savings deposit books and foreign exchange accounts and transfer of effective foreign currency from one foreign currency savings deposit book to another or from one foreign exchange account to another foreign exchange account of the same holder,
- 7) sale and purchase, i.e. payments and collection of claims and debts incurred in foreign trade activities of resident legal persons and entrepreneurs under Articles 7(3) and 19d above,
- 8) payment of deposit as a surety.

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

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

#### **Article 5**

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

Payments, Collection and Transfers Based on Current and Capital Transactions

#### **Article 6**

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

#### **Article 7**

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

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

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

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

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

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

#### **Article 7a**

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

The recipient bank shall execute a valid payment order which:

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

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

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

1. the conditions under which the payment order is executed,
2. the period of time the execution will take from the moment of issue of payment order until the beneficiary's receipt,
3. the manner of computation of commission and other costs, if any, and
4. the applied exchange rate.

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

1. the execution of payment
2. the original amount that was paid,
3. the amount of costs and commission the sender is charged with and
4. value date.

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

Payments, Collection and Transfers Based on Current Transactions

### **Article 8**

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

### **Article 9**

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

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

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

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

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

### **Article 10**

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

### **Article 11**

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

### **Article 12**

The date of collection shall be considered:

1. the date when the foreign exchange was paid into an account with the authorized bank,
2. the date when customs clearance was completed or/and a service which was the subject of the export was provided.

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

### **Article 13**

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

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

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

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

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

Payments, Collection and Transfers Based on Capital Transactions

### **Article 14**

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

Non-residents may make payments and transfers of capital based on acquisition, sale and liquidation of direct investments in the RS without any restrictions only if the transaction is registered and carried on in accordance with the RS valid foreign investment law.

### **Article 15**

A resident may not effect payments or transfers in order to acquire ownership over real estate abroad, unless otherwise provided by law or international agreement.

The provision of paragraph 1 above shall not apply to residents - state bodies and organization, diplomatic offices abroad, citizens employed in these offices, and their family members.

A non-resident may not effect payments in order to acquire ownership over real estate in the RS, unless otherwise provided by law or international agreement.

The prohibition under paragraph 1 above shall not apply to non-residents - natural persons with temporary residence abroad for over a year.

## **Article 16**

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

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

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

## **Article 17**

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

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

## **Article 18**

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

## **Article 19**

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

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

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

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

A resident shall use funds from financial credits from abroad through a bank or an account opened abroad in accordance with Article 24 of this Law.

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

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

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

The Government may prescribe the manner and conditions for granting of financial loans to non-residents and providing guarantees and sureties for foreign credit transactions.

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

#### **Article 19a**

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

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

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

#### **Article 19b**

The RS may borrow abroad, issue guarantees and issue securities in accordance with provisions of the legislation governing the execution of budget and borrowing by the RS.

#### **Article 19c**

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

The RS shall not be a guarantor for the performance of duties in any foreign credit transaction, except as provided by law.

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

### **Article 19d**

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

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

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

### **Article 19e**

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

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

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

### **Article 20**

A resident natural person may not pay premiums of life insurance to a non-resident insurance company abroad, unless otherwise provided in some other law.

### **Article 21**

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

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

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

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

## **Article 22**

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

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

Foreign Exchange Accounts and Convertible Marks Accounts of Residents and Non-residents in the RS and Abroad

## **Article 23**

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

An authorized bank may not keep foreign exchange with another resident in the RS, except with another authorized bank or the Central Bank.

## **Article 24**

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

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

A resident state authority or organization may have foreign exchange accounts with an authorized bank and the Central Bank.

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

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

## **Article 25**

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

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

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

### **Article 26**

No transfer of funds from a foreign exchange account or convertible marks accounts with an authorized bank or a bank shall be allowed for a non-resident who has not paid all taxes, customs and other duties on the particular transaction to the RS.

### **Article 27**

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

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

### **Article 28**

The Ministry may prescribe conditions and procedures for opening bank accounts of residents and non-residents by an authorized bank or a bank.

## **III - FOREIGN EXCHANGE MARKET AND THE EXCHANGE RATE OF CONVERTIBLE MARK**

### **Article 29**

For the purpose of this Law, the foreign exchange market shall comprise all purchase and sale transactions in foreign exchange and effective foreign currency performed within RS directly:

- between the Central Banks on one side and authorized banks or banks and other persons on the other side;
- between authorized banks or banks and residents, as well as between authorized banks or banks and non-residents;
- among authorized banks and among banks;
- between authorized banks and banks;
- between authorized banks and banks and residents authorized to perform currency exchange operations.

### **Article 30**

Purchase and sale of foreign exchange and effective foreign currency outside the foreign exchange market in the RS shall be forbidden.

### **Article 31**

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

Authorized banks may purchase and sale foreign exchange and effective foreign currency in the foreign exchange markets abroad.

### **Article 32**

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

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

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

### **Article 33**

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

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

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

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

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

### **Article 33a**

With the request for authorization under Article 33(4) above, the bank shall enclose and submit to the Ministry the following:

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

In addition to the documentation under paragraph 1 above, the Government may prescribe that other documents should be submitted with the request for authorization to perform currency exchange operations.

### **Article 33b**

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

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

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

### **Article 34**

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

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

### **Article 35**

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

Authorized banks and banks shall post publicly and publish the exchange rates used to purchase and sell foreign exchange and effective foreign currency.

### **Article 36**

The official mid-market exchange rate of convertible mark shall be used for accounting and statistical purposes.

When charging import and export duties and levies, the official mid-market exchange rate of convertible mark shall be used in accordance with the customs law.

## **IV PHYSICAL TRANSFERS OF MEANS OF PAYMENT**

### **Article 37**

Taking effective foreign currency, payment cards and cheques denominated in foreign currency into the RS shall be without restrictions.

Taking payment cards abroad shall be without restrictions.

Taking Convertible Marks Into and Out of the RS

### **Article 38**

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

Taking Effective Foreign Currency, Cheques And Securities Into and Out of the RS

### **Article 39**

The Government shall prescribe the amount of effective foreign currency and foreign cheques that resident and non-resident natural persons may take out of the RS, conditions and procedures of taking out securities and conditions under which an authorized bank may take effective foreign currency and securities out of the RS.

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

### **Article 40**

Effective foreign currency, cheques, securities and convertible marks impounded by supervisory authorities having issued a receipt and instituted proceedings over founded suspicion that a criminal offence or misdemeanour has been committed shall be deposited by the supervisory authorities, until the case has been closed, in the special-purpose account of the Ministry, the RS Foreign Exchange Inspectorate (hereafter: Inspectorate), which is opened with approval of the RS Treasury, or in the vault of an authorized bank within two working days following the day of impounding.

Prevention of Money Laundering

### **Article 41**

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

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

### **V - Reporting**

#### **Article 42**

The Agency or other competent governmental authority shall determine, within its competence, an obligation of authorized banks, banks, residents and non-residents to report on foreign currency operations under this Law and reporting procedures.

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

#### **Article 43**

In order to design an economic policy the Government shall make a projection of the balance of payment of the RS and monitor the implementation through the competent authorities.

### **VI - FOREIGN EXCHANGE SUPERVISION**

#### **Article 44**

Supervision over foreign exchange operations that are regulated by this Law and by-laws enacted in accordance with this Law shall be conducted by the Inspectorate, the Agency and Customs authorities.

#### **Article 45**

The Agency shall supervise the international operations of authorized banks, banks and exchange offices as well as the foreign exchange operations of residents and non-residents that have property, management and business relations with the authorized banks, banks and exchange offices.

#### **Article 46**

The Inspectorate shall supervise the foreign exchange operations of residents and non-residents.

The Inspectorate shall supervise the foreign exchange operations of persons under Article 45 that have property, management and business relations with persons under paragraph 1 of this Article.

The competent governmental authority shall prescribe procedures for foreign exchange supervision under paragraph 1 of this Article.

#### **Article 47**

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

#### **Article 48**

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

#### **Article 49**

The supervisory authorities shall be under obligation to cooperate in supervising the foreign exchange operations and make available data, findings and information in their possession that are required in supervising the foreign exchange operations and to engage other authorities, as required.

#### **Article 50**

Residents and non-residents subject to foreign exchange supervision shall allow authorities in charge of foreign exchange supervision unhindered inspection of their business operations and shall make available or send to them, on request, all necessary documentation and provide required data.

The obligations under paragraph 1 above shall also apply to representative offices and branches of residents that perform economic activities abroad.

If a person under paragraphs 1 and 2 above fails to provide conditions for the supervision under paragraph 1 above, the inspector shall immediately require from the competent authorities that they should take steps to provide conditions for the supervision.

#### **Article 51**

If an inspector finds illegalities and irregularities in foreign exchange and foreign trade operations in the course of supervision, he will issue a decision ordering for the illegalities and irregularities found to be removed, i.e. that particular actions should be taken, setting a deadline for it and taking other actions provided by law.

An appeal may be filed against the decision under paragraph 1 above to the Director of the Inspectorate.

The authority under paragraph 2 above may suspend enforcement of the decision under paragraph 1 above at the request of a resident or non-resident. A decision rejecting suspension of enforcement of the decision under paragraph 1 above may not be appealed.

The procedures and proceedings of the foreign exchange supervision shall apply provisions of the law on general administrative procedure, unless otherwise provided by law.

#### **Article 52**

If regulations provide for a protective measure, i.e. security measure of seizure of the items related to the perpetration of an offence or misdemeanour, an authorized person supervising foreign exchange operations may temporary seize items over founded suspicion that they were used in the perpetration of the offence or misdemeanour, were meant to be used in the perpetration or were generated by the perpetration of the offence or misdemeanour.

The inspector, i.e. the authorized person, shall issue a receipt of seized items.

#### **Article 53**

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

#### **Article 54**

The Inspectorate shall monitor the enforcement of fines and other measures imposed in a misdemeanour order to pay a fine or by an agreement on the penalty.

If it is determined that an entity, a fine was imposed on avoids to pay the fine, the misdemeanour order to pay a fine shall be delivered for enforcement to the competent authority or organization.

The competent authority or organization shall inform the Inspectorate about enforcement of the misdemeanour order to pay a fine under paragraph 2 above and enforcement of the decision issued at the request of the inspector for institution of misdemeanour proceedings.

### **VIII – PENAL PROVISIONS**

#### **1. Criminal Offences**

#### **Article 55**

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

## **Article 56**

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

## 2. Misdemeanours

### **Article 57**

For a misdemeanour, a fine of between BAM 25,000.00 and 100,000.00 shall be imposed against an authorized bank, bank, state authority or organization, resident legal person and non-resident legal person that pays or issues orders for international payments on the basis of fictitious contracts or other fictitious documents, or conclude contracts not stipulating the actual values (Article 7(5)).

The responsible person in the authorized bank, bank, state authority or organization, resident legal person and non-resident legal person shall be fined by BAM 5,000.00 to 20,000.00 for a misdemeanour under paragraph 1 above.

A resident entrepreneur and non-resident entrepreneur shall be fined by BAM 5,000.00 to 20,000.00 for a misdemeanour under paragraph 1 above.

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

### **Article 58**

For a misdemeanour, a fine of between BAM 20,000.00 to 80,000.00 shall be imposed against a resident that, when approving the loan and issuing guarantees and sureties for the benefit of non-residents, fails to contract with and acquire from the non-residents surety instruments safeguarding security of the credit transaction, guarantees issued and sureties given (Article 19(7)).

The responsible person in the resident shall be fined by BAM 5,000.00 to 20,000.00 for a misdemeanour under paragraph 1 above.

### **Article 59**

For a misdemeanour, a fine of between BAM 15,000.00 to 60,000.00 shall be imposed against a resident legal person:

1. that carries out currency exchange operations contrary to Article 33 above;

2. that fails to allow unhindered inspection and examination of its business operations and fails to make available all necessary documentation and provide required data (Article 50).

A non-resident legal person shall be fined by BAM 15,000.00 to 60,000 for a misdemeanour under paragraphs 1 and 2 above.

The responsible person in the resident legal person and non-resident legal person shall be fined by BAM 5,000.00 to 20,000.00 for a misdemeanour under paragraphs 1(1) and 2 above.

A resident entrepreneur and non-resident entrepreneur shall be fined by BAM 5,000.00 to 20,000.00 for a misdemeanour under paragraphs 1(1) and 2 above and paragraph 2 respectively.

A resident natural person and non-resident natural person shall be fined by BAM 2,500.00 to 10,000.00 for a misdemeanour under paragraphs 1 and 2 above.

For the acts referred to in paragraph 1 above, besides the fine, a sanction may be imposed to bar the entity from carrying out currency exchange transactions or other activities that were the subject of control, in the shortest period of three months and maximum duration of six months, except for payments and transfers under Article 2(10) above.

### **Article 60**

For a misdemeanour, a fine of between BAM 10,000.00 to 40,000.00 shall be imposed against an authorized bank, bank, state authority or organization, resident legal person and non-resident legal person:

1. that executes a payment order, i.e. international transfer, and such a payment or transfer is not allowed by this Law (Article (7)(2));

2. that fails to bring the profit made abroad from the performance of investment construction, as well as foreign exchange kept by the other contracting party as a guarantee of the correctness of performed works, in line with the guarantee deadlines, into the RS within 8 days after the completion of investment construction, and/or expiry of the guarantee deadline (Article 10);

3. that fails to bring into the RS the profit made by the performance of economic activity abroad in accordance with this Law (Article 11);

4. that fails to recover the amount paid in advance within eight days of the expiry of six months after having failed to import goods and services paid in advance abroad within six months after payment (Article 13(2));

5. that, whether a resident or non-resident, make payments and transfers of capital based on acquisition, sale and liquidation of direct investments abroad in violation of Article 14 above;

6. that, whether a resident or non-resident, effects payments or transfers in order to acquire ownership over real estate abroad in violation of Article 15 above;
7. that effects payments in order to purchase foreign securities in foreign and domestic capital markets in violation of Article 16(1);
8. that effects payments in order to purchase domestic securities in violation of Article 16(3) above;
9. that effects payments in order to purchase foreign short-term securities in foreign and domestic money markets in violation of Article 17(1) above;
10. effect payments in order to purchase domestic short-term securities in violation of this Law (Article 17(2));
11. that makes investment in foreign investment funds in violation of Article 18;
12. that, being an authorized bank, grants a loan in violation of Article 19(2) above;
13. that grant each other foreign exchange loans (Article 19(4));
14. that fails to use funds from financial credits from abroad through a bank or an account opened abroad in accordance with provisions of this Law (Article 19(5));
15. that uses funds from financial credits from abroad through a bank in violation of Article 19(6) above;
16. that grants financial loans to non-residents with a maturity of less than one year when it is prohibited by this Law (Article 19(8));
17. that, being a resident or a non-resident, grant each other domestic currency loans (Article 19(10));
18. that contracts credit transactions and loans granted to establish permanent economic relations under Article 2(12)(c) in violation of Article 19a(1) above;
19. that contracts international credit transactions in violation of Article 19a(2) above;
20. that contracts international credit transactions in violation of Article 19a(3) above;
21. that contracts for purchase of receivables arising from loans granted to non-residents, as well as the debt of a resident owed to non-residents arising from foreign credit transactions, in violation of Article 19d(1) above;
22. that contracts for purchase of receivables arising from loans granted to non-residents, as well as the debt of a resident owed to non-residents arising from foreign credit transactions, in violation of Article 19d(2) above;

23. that, being a non-resident, carries out purchase of receivables and debts of a resident owed to non-residents arising from foreign credit transactions, in violation of the Government's regulation (Article 19d(3));
24. that collects insurance/reinsurance premiums or pays insurance claims in violation of this Law (Article 21);
25. that transfers funds from the foreign currency or convertible marks account without having produced a certificate of settlement of all relevant customs duties and tax liabilities to the RS (Article 26);
26. that, being an authorized bank or a bank, fails to ensure confidentiality of information (Article 27(2));
27. that, being a bank, fails to file request for authorization to perform currency exchange transactions in accordance with Article 33a above (Article 33a);
28. that fails to comply with the reporting obligation under (Article 42(1));
29. that fails to allow the Agency or other competent governmental authority to examine their account books and make other necessary documentation available (Article 42(2));
30. that fails to comply with a decision of inspector with the deadline set therewith (Article 51(1));
31. that fails to comply with a decision of the RS competent authority (Article 54).

The responsible person in the authorized bank, bank, state authority or organization, resident legal person and non-resident legal person shall be fined by BAM 3,000.00 to 12,000.00 for a misdemeanour under paragraph 1 above.

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

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

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

#### **Article 60a**

For a misdemeanour, a fine of between BAM 5,000.00 to 20,000.00 shall be imposed against an authorized bank, bank, state authority or organization, resident legal person or non-resident legal person:

1. that uses foreign exchange in violation of this Law (Article 3(1));

2. that uses effective foreign currency in violation of the Government's regulations (Article 3(2));
3. that carries out payments, collection, transfers and repayment in the RS in violation of Article (Article 4(1));
4. that fails to deposit effective foreign currency in its foreign exchange account with an authorized bank or a bank (Article 4(3));
5. that fails to carry out payments and collection based on current and capital transactions through an authorized bank (Article 7(1));
6. that carries out payments, collection and transfers based on current and capital transactions by offsetting, assignment of receivables, assumption of debt and other types in violation of the Government's regulations (Article 7(3));
7. that uses payment cards for payment based on capital transactions (Article 7(4));
8. that fails to carry out payments, collection and transfers based on current and capital transactions following the procedures set forth in the Ministry's regulations (Article 7(6));
9. that fails to bring into the RS foreign exchange earned or foreign exchange transferred abroad but not spent abroad, in accordance with this Law (Article 8);
10. that, being an authorized bank, fails to keep foreign exchange in accounts in accordance with this Law (Article 23);
11. that fails to keep foreign exchange in a foreign exchange account with an authorized bank or bank (Article 24(1));
12. that has foreign exchange accounts with a bank in violation of Article 24(3) (Article 24(3));
13. that has foreign exchange accounts with a bank abroad in violation of the Government's regulation (Article 24(5));
14. that fails to keep foreign exchange earned in accordance with this Law with an authorized bank or bank (Article 25(1));
15. that keeps convertible marks not earned by collection based on current and capital transactions provided for in this Law in bank accounts with an authorized bank or bank (Article 25(2));
16. that purchase foreign exchange from an authorized bank or a bank to the extent larger than the counter value of domestic currency earned in accordance with this Law (Article 25(3));
17. that purchases or sells foreign exchange or effective foreign currency outside the foreign exchange market (Article 30);

18. that purchases or sells convertible marks for euros at the exchange rate and terms in violation of Article 35(1) above;
19. that fails to post and publish publicly the exchange rates used to purchase and sell foreign exchange and effective foreign currency (Article 35(2));
20. that fails to use the exchange rate under Article 36 above for accounting and statistical purposes, and computation of customs duties and levies;
21. that takes out of the RS convertible marks in violation of the Government's regulation (Article 38);
22. that takes out of the RS effective foreign currency, cheques and securities in violation of the Government's regulation (Article 39);
23. that fails to deposit effective foreign currency, cheques, securities and convertible marks impounded in the special-purpose account of the Inspectorate or in the vault of an authorized bank (Article 40);
24. that fails to declare to the customs officer any amount of effective foreign currency, convertible marks and securities that is being taken into or out of the country in excess of the amounts determined in the law against money laundry (Article 41(1)).

The responsible person in the authorized bank, bank, state authority or organization, resident legal person and non-resident legal person shall be fined by BAM 2,500.00 to 10,000.00 for a misdemeanour under paragraph 1 above.

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

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

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

### **Article 60b**

For a misdemeanour, a fine of between BAM 3,000.00 to 12,000.00 shall be imposed against a resident:

1. that fails to bring into the RS means of payment with regard to export of goods or provision of services abroad within 6 months following the export goods clearance/the execution of the service (Article 9(1));
2. that fails to bring into the RS any means of payment realized on the sale of goods located abroad and directly delivered abroad, within six months from the date of payment (Article 9(3));

3. that fails to import the goods and service paid in advance in the RS within six months from the date of payment (Article 13(1));
4. that fails to report to the Ministry on credit transactions under this Law (Article 19e.1)).

The responsible person in the resident legal person shall be fined by BAM 1,500.00 to 6,000.00 for a misdemeanour under paragraph 1 above.

Also a resident entrepreneur shall be fined by BAM 1,500.00 to 6,000.00 for a misdemeanour under paragraph 1 above.

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

#### **Article 60c**

For a misdemeanour, a fine of between BAM 2,500.00 to 10,000.00 shall be imposed against a resident natural person:

1. that effects payments in order to purchase foreign securities in foreign and domestic capital markets in violation of Article 16(2);
2. that pays premiums of life insurance to an insurance company (Article 20);
3. that carries out personal and physical transfers of foreign means of payment in violation of the Government's regulations (Article 22).

#### **Article 61**

For the acts under Articles 57 and 60 above, apart from a fine, a protective measure of temporary seizure of the items that were used or were meant to be used in the perpetration of a misdemeanour or were generated by the perpetration of the misdemeanour may be imposed.

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

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

#### **Article 62**

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

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