

CURRENCY REGIME

X.

X.1. Legal Framework

X.1.1. Laws and Regulations

The most important acts pertaining to this matter are the Currency Act, the Banks Act, the Measures against Money Laundering Act, the Bulgarian National Bank Act, etc. There are numerous regulations that have been issued in implementation of the provisions of said acts.

X.1.2. International Institutions

Bulgaria is a member of: the International Monetary Fund as of 1990. The quota of the state is BGL, 640.2 million SRI; International Bank for Reconstruction and Development as of 1990 whereas the shareholding of the state is 0.34% of the bank's capital; the European Bank for Reconstruction and Development as of 1990 as the shareholding of the state towards 31 December 2003 is 158.0 mln. Euro; The Republic of Bulgaria adjoins to the Agreement for Setting up the Black Sea Bank for Commerce and Development on 23 December 1994 thus being among the members, which have incorporated the bank. The shareholding of the state in the bank is 13.5% of the capital.

X.2. General Review

The national currency of the Republic of Bulgaria is the Bulgarian lev (BGL). After the introduction of a Currency Board Arrangement on July 1, 1997, the exchange rate is currently fixed by law at 1.95583 Levs per Euro. The Bulgarian National Bank (BNB) is the body responsible for maintaining and conducting the monetary and credit policy, printing and issuing banknotes and coins, which is its exclusive right, supervising banks and the payment system and performing other tasks assigned to it by virtue of law. For supervision and inspection purposes the BNB may inspect the documentation of all banks in Bulgaria. The BNB is the authority which determines by regulations the specific rules pertaining to the currency regime and the various obligations which must be performed by the participants in the foreign exchange market and the payment system. The Currency Act regulates the transactions and payments between local and foreign persons, the cross border transfers and payments, the foreign exchange transactions in the course of business, the transactions with precious metals and precious stones as well as their import, export and processing, import and export of levs and foreign exchange cash, the collection, maintenance and reporting of statistical information on Bulgaria's balance of payment and exercising of foreign exchange control.

The Currency Act does not impose any restrictions as to the buying and selling of foreign currency and these activities may freely be done between licensed commercial banks and other persons, between

commercial banks themselves and between the BNB and the commercial banks. There are no restrictions as to the amount of money which may be paid in cash neither there are restrictions as to the type of currency used for payment. Legal and natural, local and foreign persons are also entitled to have their own accounts opened with local banks in various currencies. For opening a bank account by an entity banks in Bulgaria require a court of law resolution for registering the company, tax and statistical number of the company and in case a natural person opens it - an identity card/passport of the natural person. A signature pattern of the person authorized to operate with the bank account is to be provided to the bank. A notarized power of attorney will also be required in case a proxy of the person willing to open the bank account is going to open it.

Foreign persons are entitled to transfer abroad amounts arising out of different grounds, as the amount may be:

- income earned from investments, liquidation quota received upon termination of the investment;
- revenues from sale of the object of the investment, etc.

Normally, upon the moment of remittance of the amount the banks require a document proving that the respective taxes, if any, have been paid in Bulgaria. Notwithstanding the liberalization of the currency regime, still the money flow is controlled by the state through the measures contemplated by the Currency Act and specifically by the measures and instruments provided by the Money Laundering Act.

According to the latter act, money laundering shall represent the preparation, carrying out and acceptance of the result of those actions through which money or other property have been illegally (criminally) acquired and which have become a part of the economic turnover. In addition to this general definition of money laundering, the law provides that the following specific cases shall also be considered as money laundering:

- transformation and transfer of properties acquired through crimes, the hiding or concealing of the nature, location, etc. of the properties acquired through crimes;
- other specific cases.

Measures and activities for discovering and preventing money laundering are to be undertaken in the course of depositing, withdrawing and exchanging money, conclusion of acquisition property transactions and in other forms of use of money and other property which could be used for money laundering. The persons responsible for carrying out the measures specified in the Money Laundering Act are numerous and among them are: the Bulgarian National Bank, the commercial banks, the foreign banks which have obtained a license by the Bulgarian National Bank to conduct bank operations in Bulgaria through a branch, financial houses, exchange bureaus, insurers, pension funds, privatization bodies, leasing enterprises, tax authorities, notaries public, certified public

accountants and specialized auditing enterprises, customs authorities, persons organizing tenders for public procurement, etc.

The persons, which are obliged to apply mandatory measures against money laundering, have to determine the identity of their clients upon establishing a permanent commercial relations with them, incl. upon opening a bank account, or in the course of a transaction, which exceeds BGL 30,000 or the equivalent in other currencies, or if the transaction exceeds BGL 10,000 when it is executed with banks, financial brokerage house or an exchange bureau. In addition, the origin of the funds should also be declared.

Apart from the identification of clients, other measures to be undertaken may be: data collection on the substantial elements of the transaction, data safekeeping and reporting suspicious transactions to the Financial Intelligence Agency (The "Agency"). The Agency is authorized to collect, process, analyze, store the data received from the respective persons and disclose it to the state authorities. The Agency is an administrative unit to the Minister of Finance.

X.3. Licenses, Permits. Procedure - competent authority, documents required, terms, fees

The transactions enumerated below being not less than BGN 5,000 require declaration with the BNB within 15-days as of their execution as the declaration is made with statistical purposes (for the payment balance statistics) and does not represent a step towards obtaining an approval on the deal. Failure to declare a transaction is subject to fines as set out in the Currency Act. The transactions are:

- initial direct investments abroad effected by local legal entities or sole proprietors, and
- any contract for granting financial credit between local legal entities and sole-proprietors and a foreign person in excess of BGL 5,000 must be reported to the BNB for the purpose of national monetary statistics.

Currency transfers and payment transfers abroad may be made through banks only after informing the bank of the purpose of the transfer. If a person wishes to transfer abroad currency exceeding BGL 25,000 – that person, apart from declaring the ground for the transfer, should provide BNB with additional data and documents, which are determined by a regulation issued by BNB.

Local and foreign persons may export currency in cash (in levs or foreign exchange currency) under the following conditions:

- amounts up to BGL 8,000 or their equivalent in other currency may be exported freely – no written declaration before the customs authorities is required;
- amounts between BGL 8,000 and BGL 25,000 or their equivalent in other currency – must be declared at the customs;
- amounts over BGL 25,000 or their equivalent in other currency – may be exported only after they have been declared before the customs authorities whereas

the declaring persons should point out the origin of the money exported.

Cash transactions being within the scope of the regular business may be carried out by a person, registered as trader as per the Commerce Act and only after it has been entered into the public register of persons, operating as an exchange bureau. For entering into this register a state fee is gathered. A written permit (license) issued by the BNB is required for carrying out cash and non-cash transactions in foreign currency by a brokerage financial house. A regulation issued by BNB determines the documents and fees required for issuance of the permit. A regulation issued by the Council of Ministers determines the documents and requirements for registration in the public register of persons, operating as an exchange bureau. Persons who carry out business activities on extracting and processing of precious metals and precious stones, and produce articles made of such materials, or who carry out business activities with them shall be obliged to register themselves with the Ministry of Finance within a 14-day period before starting their activity. The Ministry of Finance maintains a public register of persons engaged in extracting, processing and trading with precious metals and precious stones and articles made of them in the course of business. A Tariff approved by the Council of Ministers provide for the fees to be collected for this registration.

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