



EXCHANGE CONTROL ACT

FOREIGN EXCHANGE MANUAL

(Incorporating Provisions up to 31st December, 2001)

Central Bank of Sri Lanka

Exchange Control Act
Foreign Exchange Manual

This reprint contains the text of the Act up to 31st December, 2000. It is not a statutory reprint but is issued for purpose of convenience.

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CHAPTER I

INTRODUCTORY

The Exchange Control Act regulates dealings in gold, foreign currency and securities in Sri Lanka. The Central Bank of Sri Lanka, as the agent of the Government, is responsible for carrying out the provisions of the Act. The powers, duties or functions conferred on the Central Bank are exercised or performed by the Controller of Exchange, subject to the direction and control of the Governor of the Central Bank.

Accordingly the Controller of Exchange has issued several circulars, rules, notifications, orders and directions and, subject to the above instruments, delegated powers to authorised dealers to approve certain transactions on his behalf. There have been numerous amendments made to the several instruments issued by the Controller.

This manual has been prepared to enable the public to be made aware of the provisions regulating foreign exchange. The manual contains a summary of the instruments issued by the Controller and does not seek to reproduce these instruments or in any way amend or repeal them. The public is advised, in cases of doubt, to consult an authorised dealer or the Controller of Exchange before entering into transactions covered by this manual.

CHAPTER 2

**AUTHORISED DEALERS, MONEY CHANGERS AND OTHER PERSONS
PERMITTED TO ACCEPT FOREIGN CURRENCY**

1. Each licensed commercial bank authorised by the Minister of Finance in terms of section 4 of the Exchange Control Act shall act as an authorised dealer in relation to gold or any foreign currency.
2. The Controller of Exchange has permitted authorised dealers to approve certain transactions on behalf of the Controller under the Exchange Control Act subject to conditions imposed by him.
3. Before approving any transactions, authorised dealers are required to satisfy themselves about the bona fides of the applicant and the genuineness of the transaction by verifying the necessary documents.
4. The Central Bank has also appointed money changers who are authorised to purchase foreign currency notes and exchange them for any other currency. They are not authorised to sell foreign exchange for Sri Lankan Rupees.
5. The Central Bank has permitted, subject to the conditions in the permit –
 - (a) hoteliers;
 - (b) persons engaged in the gem and jewellery trade and approved by the National Gem and Jewellery Authority;
 - (c) travel agents;
 - (d) duty free shops;
 - (e) hospitals;
 - (f) agency post offices approved by the Post Master General;
 - (g) harbour traders approved by the Sri Lanka Port Authority;
 - (h) other persons engaged in or connected with the tourist industry,to accept foreign currency for services rendered and goods supplied to tourists.

CHAPTER 3

DECLARATION OF FOREIGN CURRENCY

A person arriving in or departing from Sri Lanka is required to make a declaration to Customs of foreign currency imported or exported at the time of arrival or departure only if the amount of foreign currency exceeds United States Dollars Ten Thousand or its equivalent in other convertible foreign currencies. Import of non-convertible foreign currency is permitted on a declaration made to Customs.

REFERENCES

EC 18/91 (D) of 27th March 1991

EC 19/94 (D) of 24th November 1994

CHAPTER 4

PRIVATE FOREIGN CURRENCY ACCOUNTS.

1. An authorised dealer may open and maintain in its domestic banking unit the following accounts in foreign currency –
 - (a) Non Resident Foreign Currency accounts, hereafter referred to as “NRFC”;
 - (b) Resident Foreign Currency accounts, hereafter referred to as “RFC”;
 - (c) Resident Non Nationals’ Foreign Currency accounts, hereafter referred to as “RNNFC”;
 - (d) Exporters Foreign Currency accounts, hereafter referred to as “EFCA”;
 - (e) Foreign Currency accounts for hoteliers, hereafter referred to as “HFCA”;
 - (f) Resident Guest Foreign Currency accounts, hereafter referred to as “RGFC”.
2. A NRFC may be opened for –
 - (a) a citizen of Sri Lanka who is or has been employed outside Sri Lanka;
 - (b) a national of a foreign country who prior to the acquisition of such nationality was a citizen of Sri Lanka;
 - (c) with the prior written approval of the Controller of Exchange, a foreign employment agency licensed by the Sri Lanka Bureau of Foreign Employment.
3. (1) A NRFC may be opened for a person referred to in clauses (a) and (b) of paragraph 2 while such person is resident outside Sri Lanka or within ninety days after the return of such person to Sri Lanka.
 - (2) Before the opening of a NRFC for a person referred to in subparagraph (1) such person shall furnish the authorised dealer the following information and documents:–
 - (a) the full name, nationality, foreign address and occupation of the person;
 - (b) the number, date of issue and the period of validity of the passport of the person;
 - (c) date of last departure from Sri Lanka of the person;
 - (d) the nature of employment of the person outside Sri Lanka;
 - (e) in the case of a national of a foreign country, documentary evidence to satisfy that the person prior to acquisition of foreign nationality was a citizen of Sri Lanka.
4. Before the opening of a NRFC for a foreign employment agency such agency shall furnish to the authorised dealer the following information and documents;
 - (a) a certified copy of the licence issued to the agency by the Sri Lanka Bureau of Foreign Employment;
 - (b) a certified copy of the Business Registration Certificate or the Certificate of Incorporation of the agency;
 - (c) documentary evidence of the receipt of commission or a service payment fee in foreign currency in respect of recruitment by the agency.

5. A NRFC may be opened in the form of a current, savings or fixed deposit account and, in the case of persons referred to in clauses (a) and (b) of paragraph 2, may be held jointly provided all the joint holders are qualified to open such an account.
6. (1) A NRFC of a person referred to in clauses (a) and (b) of paragraph 2 shall only be credited with –
 - (a) inward remittances in foreign exchange in favour of such person;
 - (b) foreign exchange brought to Sri Lanka by such person on arrival in Sri Lanka;
 - (c) interest payable in foreign currency on the funds held in the account;
 - (d) dividends and profits earned from and sale proceeds of investments of the funds of the account, in an enterprise approved by the Board of Investment of Sri Lanka under section 17 of the Board of Investment of Sri Lanka Law (hereafter referred to as a “BOI Enterprise”) and received in foreign currency.
- (2) A NRFC of an agency referred to in clause (c) of paragraph 2 shall only be credited with –
 - (a) commissions or service payment fees in foreign currency in the form of inward remittances in respect of recruitments made by the agency;
 - (b) interest payable in foreign currency on the funds held in the account.
7. (1) Funds in a NRFC may be utilised for –
 - (a) making any payment in foreign currency to or for the credit of a person resident outside Sri Lanka;
 - (b) transfer of funds from one NRFC to another NRFC;
 - (c) making any payment in Sri Lanka in Sri Lankan rupees converted at the prevailing rate of exchange;
 - (d) issue of travellers cheques and, subject to subparagraph (2), of foreign currency notes for travel outside Sri Lanka to –
 - (i) the account holder where such holder is a person referred to in clauses (a) and (b) of paragraph 2;
 - (ii) a proprietor, partner or a director of the account holder where such holder is a foreign employment agency,
on production of an unutilised travel ticket.
 - (e) an investment in a BOI Enterprise;
 - (f) subject to such restrictions as may be imposed under the Banking Act No.30 of 1988, as security for the grant of rupee loan facilities for third parties.
- (2) Except with the approval of the Controller of Exchange, foreign currency notes issued for travel under clause (d) of subparagraph (1) shall not exceed five hundred United States Dollars as per instructions given to authorised dealers and the total amount released under subparagraph (1)(d) shall be endorsed on the passport of the traveller as foreign exchange issued against funds held in that account.
8. A RFC may be opened for –
 - (a) an individual resident in Sri Lanka, whether a citizen of Sri Lanka or not, who could satisfy the authorised dealer that the individual owns or holds foreign exchange of an amount not less than five hundred United States Dollars or its equivalent in other

foreign currency received on inward remittances in favour of the individual or brought to Sri Lanka on arrival therein by the individual;

- (b) a citizen of Sri Lanka resident in Sri Lanka who owns or holds foreign exchange of an amount not less than five hundred United States Dollars or its equivalent in other foreign currency.
9. A RFC shall be opened with a minimum initial deposit of five hundred United States Dollars or its equivalent in other foreign currency and may be opened and maintained in the form of a savings, current or fixed deposit account and could also be held jointly with other individuals qualified to open such an account.
10. A RFC shall only be credited with –
- (a) inward remittances received in favour of the account holder except as proceeds of export of goods and services by the account holder or as remittances to the credit of a Non-Government Organisation;
 - (b) foreign exchange brought to Sri Lanka on arrival therein by the account holder other than as any unutilised balances of foreign exchange granted for travel abroad;
 - (c) foreign exchange owned or held by the account holder in opening the account;
 - (d) interest payable in foreign currency on funds held in the account.
11. Funds in a RFC may be utilised for –
- (a) making any payment in foreign currency to or for the credit of a person resident outside Sri Lanka;
 - (b) transfer of funds from one RFC to another RFC;
 - (c) making any payment in Sri Lanka in Sri Lankan rupees converted at the prevailing rate of exchange,
- and any documents for making any of the above payments shall be endorsed as being issued in Sri Lanka against the funds in the RFC.
12. Authorised dealers are not required to close a RFC of a RFC account holder where the balance in the account falls below five hundred United States Dollars or its equivalent in foreign currency.
13. A RNNFC may be opened for a national of a foreign country resident in Sri Lanka either temporarily or permanently on a resident visa.
14. A RNNFC may be opened as a current, savings or a deposit account but withdrawal of funds by cheque from such an account shall not be permitted.
15. Interest on outstanding balance of a RNNFC may be paid in foreign currency in which the account is maintained.
16. A RNNFC may only be credited with –
- (a) inward remittances of foreign currency in favour of the account holder;
 - (b) interest paid on the funds in such account;
 - (c) foreign currency in which the account is maintained equivalent to the amount of Sri

Lankan rupees authorised by the Controller of Exchange for remittance abroad by the account holder and converted into foreign currency at the rate of exchange prevalent on the date of credit to the account.

17. Funds in a RNNFC may be utilised for –

- (a) outward remittances in the foreign currency in which the account is maintained;
- (b) travel abroad save that the foreign currency released in currency notes for travel abroad shall not, except with the approval of the Controller of Exchange, exceed five hundred United States Dollars as per instructions given to authorised dealers;
- (c) payment in Sri Lanka in Sri Lankan rupees converted at the prevailing rate of exchange.

18. (1) An EFCA may be opened for an exporter of goods in Sri Lanka.

- (2) Before opening an EFCA, the exporter shall furnish the authorised dealer the number assigned to the exporter by the Sri Lanka Export Development Board.
- (3) An EFCA may be opened as a current, savings or a deposit account.
- (4) An EFCA shall be credited solely with proceeds of exports of the account holder and shall not qualify for any tax exemptions.
- (5) Proceeds of exports of the account holder shall not be credited to any foreign currency account which qualifies for tax exemptions such as a NRFC or RFC of the account holder.
- (6) Funds in an EFCA may be remitted by the account holder –
 - (a) to meet reasonable claims by foreign buyers of the exports of the account holder in respect of quality and quantity deficiencies of the goods exported and as commissions to agents abroad of a reasonable percentage of the FOB value of exports;
 - (b) for settlement of import bills of the account holder including the import bills of another company belonging to the same group of companies of which the account holder is a member,

and may also be utilised for the repayment of loans granted to the account holder in foreign currency and the interest thereon (Chapter 15)

- (7) An account holder of EFCA shall not be permitted to overdraw the account.
- (8) Without prejudice to subparagraph (4), an exporter may credit export proceeds to a rupee account or may retain such proceeds abroad in any commercial bank provided funds in such an account abroad are not used for acquisition of property or other capital assets outside Sri Lanka.

19. (1) A HFCA may be opened for hoteliers in Sri Lanka.

- (2) A HFCA shall only be credited with –
 - (a) inward remittances in foreign currency from foreign travel agents and charter operators for services rendered by the hotelier; and
 - (b) foreign currency payments by foreign tourists to the hotelier for services rendered to the tourists;

- 20 (1) A RGFC may, with the prior approval of the Controller of Exchange, be opened for foreign investors and professionals resident in Sri Lanka under the Resident Guest Scheme who could contribute to the economic and socio-cultural developments of Sri Lanka.
- (2) A RGFC shall be opened with a minimum initial deposit of United States Dollars One Hundred and Fifty Thousand or its equivalent in other convertible foreign currency, being the minimum amount required to be brought into Sri Lanka for the purposes under the Resident Guest Scheme and, where the account holder has any dependent resident in Sri Lanka, with a further initial deposit of United States Dollars Twenty Five Thousand or its equivalent in other convertible foreign currency, being the amount required for registration of each such dependent under that scheme.
- (3) Funds in a RGFC may be utilised for investment in –
- (a) projects approved by the Board of Investment of Sri Lanka or by any other relevant authority;
 - (b) shares of companies listed at Colombo Stock Exchange,
- and shall not be utilised for any other purposes except with the prior approval of the Controller of Exchange granted with the concurrence of the implementing agency of the Resident Guest Scheme.
- (4) Authorised dealers may pay interest on the funds in a RGFC for an initial period of two years commencing from the date of opening of the account at such rate not exceeding the rate of interest payable on a NRFC and may, with the prior approval of the Controller of Exchange, pay interest on such funds thereafter.
- (5) Any interest paid under paragraph (4) shall not be credited to the RGFC of the account holder.
- (6) A RGFC account holder shall open a Resident Guest Rupee account for the deposit of funds remitted to Sri Lanka for the upkeep of the account holder and the dependents, if any, of such account holder and converted into Sri Lankan rupees.
- (7) Income from any investment made out of the funds in a RGFC and the interest paid on the funds in such an account may also be credited to the Resident Guest Rupee account of the holder of the RGFC.
- (8) Funds in a Resident Guest Rupee account may be utilised for the local disbursements of the account holder but shall not, without the prior written approval of the Controller of Exchange, be utilised for remittances abroad.
21. In this Chapter, “foreign currency” means any of the following currencies;
- (a) for the purposes of a NRFC –
 - (i) United States Dollar;
 - (ii) Pound Sterling;
 - (iii) Deutsche Mark;
 - (iv) French Franc;
 - (v) Swiss Franc;
 - (vi) Japanese Yen;
 - (vii) Australian Dollar;
 - (viii) Singapore Dollar;
 - (ix) Canadian Dollar;
 - (x) Danish Kroner;
 - (xi) Netherlands Guilder;

- (xii) Swedish Kroner;
 - (xiii) Hongkong Dollar;
 - (xiv) Italian lira (subject to the condition that the Central Bank shall not purchase Italian Lira from authorised dealers and that the authorised dealers shall make their own arrangements for the export of lira accepted by them for collection).
- (b) for the purposes of a RFC –
- (i) United States Dollar;
 - (ii) Pound Sterling;
 - (iii) Deutsche Mark;
 - (iv) Japanese Yen;
 - (v) Canadian Dollar;
 - (vi) Swiss Franc;
 - (vii) Australian Dollar;
 - (viii) Belgium Franc;
 - (ix) Danish Kroner;
 - (x) French Franc;
 - (xi) Netherlands Guilder;
 - (xii) Norwegian Kroner;
 - (xiii) Swedish Kroner;
 - (xiv) Singapore Dollar.
- (c) for the purposes of a RNNFC –
- (i) French Franc;
 - (ii) Japanese Yen;
 - (iii) Netherlands Guilder;
 - (iv) Pound Sterling;
 - (v) Swedish Kroner;
 - (vi) Swiss Franc;
 - (vii) United States Dollar;
 - (viii) Deutsche Mark;
 - (ix) Hongkong Dollar;
 - (x) Singapore Dollar,
- (d) for the purposes of an EFCA, HFCA or RGFC any convertible foreign currency, and the expression “foreign exchange” shall be construed accordingly. All Euro area national currencies will cease to exist from 1.1.2002 and accounts maintained in such currencies will have to be maintained in Euros.

22. Authorised dealers are required to submit to the Controller of Exchange monthly the statements in respect of the accounts maintained by them in foreign currency.

REFERENCES

- NRFC – EC 8/88(D) of 5th May, 1988;
 EC 22/90(D) of 30th March, 1990;
 EC 17/91(D) of 20th March, 1991;
 EC 115/91(D) of 12th December, 1991.
- RFC – EC 52/91 (D) of 1st August, 1991;
 EC 60/91 (D) of 13th August, 1991.
 EC 07/99 (D) of 14th December, 1999.
- RNNFC – EC 19/80 (D) of 14th May, 1980;
 EC 19/83 (D) of 11th May, 1983.
- EFCA – EC 06/94 of 18th March, 1994 together with the explanatory note attached to it.
 EC/D/GL/1994/02 of 18th March, 1994.
- HFCA – EC 71/93 (D) of 4th October, 1993.
- RGFC – ECD/08/91(D) of 20th February, 1991.
- Euro national area currencies – 01/04/011/0013/2001 of 28th November 2001.

CHAPTER 5

SHARE INVESTMENT EXTERNAL RUPEE ACCOUNTS (SIERA)

1. Foreign investors may invest –

- (a) in shares of companies listed at the Colombo Stock Exchange;
- (b) in shares of unlisted companies in which foreign investment has been approved by the Board of Investment of Sri Lanka or the Government of Sri Lanka or by any legal or administrative authority set up for approval of any such investment; and
- (c) in units in Unit Trusts operated on a licence issued under the Securities and Exchange Commission of Sri Lanka Act, No. 36 of 1987 as amended by Act, No. 26 of 1991.

subject to the exclusions, limitations and conditions set out by the Controller of Exchange in the notice published in the Government Gazette (Extraordinary) No. 1232/14 of April 19, 2002, as amended by the Notice published in the Government Gazette (Extraordinary) No. 1248/19 of August 8, 2002, a copy of which is contained in Annex 1 to this Chapter and in the Notice published in the Government Gazette (Extraordinary) No. 1122/12 of 7th March 2000, a copy of which is contained in Annex 1A to this Chapter.

2. To facilitate investment by foreign investors in shares of companies or units in Unit Trusts referred to in paragraph 1, authorised dealers are permitted to open and maintain Share Investment External Rupee Accounts, hereafter referred to as “SIERA” for –

- (a) Country Funds and Regional Funds as may be approved from time to time by the Securities and Exchange Commission;
- (b) corporate bodies incorporated outside Sri Lanka;
- (c) Citizens of Foreign States, whether resident in Sri Lanka or resident outside Sri Lanka;
- (d) Citizens of Sri Lanka resident outside Sri Lanka.

3. A SIERA shall only be credited with –

- (a) inward remittances or transfers from a Non Resident Foreign Currency account or from an off shore unit of a bank and converted into Sri Lankan rupees at the prevailing rate of exchange;
- (b) sale proceeds of shares or units;
- (c) dividends on shares or units;
- (d) commissions related to transactions in shares or units;
- (e) corporate benefits, fees and cash received in respect of securities under the Securities Borrowing and Lending Scheme introduced by the Colombo Stock Exchange. A copy of the rules of the Securities Borrowing and Lending Scheme is contained in Annex V.

and funds in a SIERA may be utilised for –

- (f) payments to brokers or commercial banks for investment in shares or units in accordance with instructions issued by the account holder;
- (g) expenses in Sri Lanka of the account holder;
- (h) subject to paragraph 4, remittances of dividends on shares or units;
- (i) subject to paragraph 5, remittances of sale proceeds of shares or units.
- (j) payments in respect of Securities Borrowing and Lending transactions under the Securities Borrowing and Lending Scheme referred to in subparagraph (e).

4. For the remission of dividends on shares or units the account holder shall submit to the authorised dealer –
 - (a) in relation to an interim dividend paid by a company or Unit Trust –
 - (i) a certificate from the auditors of the company or Unit Trust that the amount sought to be remitted represents interim dividend earned during the period to which it relates and does not include undistributed dividends of previous years or transfers from company's or Unit Trust's reserves or on account of sale of any of the company's or Unit Trust's fixed assets;
 - (ii) a certificate from the secretary or accountant of the company or Unit Trust or any other officer of the company or Unit Trust authorised to sign documents on behalf of the company or Unit Trust that the amount sought to be remitted is an interim dividend based on the unaudited accounts for the period to which it relates;
 - (iii) a certificate from the secretary or accountant of the company or Unit Trust or any other officer of the company or Unit Trust authorised to sign documents on behalf of the company or Unit Trust that the beneficiary of the remittance is, according to the information available to the company or Unit Trust, a resident outside Sri Lanka;
 - (iv) a schedule certified by the secretary or accountant of the company or Unit Trust or any other officer of the company or Unit Trust authorised to sign documents on behalf of the company or Unit Trust setting out the name of the beneficiaries and the net amounts due to them;
 - (v) documentary evidence of payments of tax (if any) on the dividends.
 - (b) in relation to a final dividend by the company or Unit Trust –
 - (i) a copy of the audited profit or loss account and the balance sheet of the company or Unit Trust for the year to which the remittance relates;
 - (ii) the certificate, the schedule and the documentary evidence specified in clauses (i), (iii), (iv) and (v) of subparagraph (a) as applicable in relation to the final dividend.
5. For the remission of sale or redemption proceeds of shares or units, the account holder shall submit to the authorised dealer –
 - (a) a bank statement certified by the bank, containing particulars of the credit balance in the SIERA of the account holder;
 - (b) contract notes in proof of the sale or redemption proceeds and number of shares or units sold or redeemed;
 - (c) income tax clearance certificate to cover the amount remitted.
6. Authorised dealers may enter into contracts with foreign investors for the purchase of foreign exchange forward, for settlement of payments in respect of shares or units purchased on their behalf up to a period calculated in accordance with the rules laid down by the Colombo Stock Exchange for buyers' settlements. The duration of such contract is limited to a period from the date of transaction to date of settlement i.e trade day plus five market days. Buyers' settlements in respect of foreign exchange purchases forward shall be routed through the SIERA of the purchaser.

7. (a) Foreign currency remitted by foreign investors as subscription for primary shares in companies or units in Unit Trust specified in paragraph 1 may be held in the off shore unit of an authorised dealer and credited, upon allotment of shares or units, in rupees converted at the prevailing rate of exchange to the SIERA of the investor maintained by the authorised dealer for the purposes of payments due for such shares or units;
- (b) Any foreign currency held in an off shore unit under subparagraph (a) and unutilised due to rejection of an application to purchase shares or units or due to partial acceptance of such application shall be refunded to the foreign investor remitting such currency.
- (c) An application to purchase shares or units by a foreign investor may be supported by a bank guarantee in favour of the offeror of shares in lieu of a draft or cheque;
- (d) Authorised dealer may continue to maintain a SIERA of a foreign investor to facilitate investment in the purchase of shares or units.
- (e) After making any payments for shares or units out of the funds in a SIERA, the authorised dealer shall within 15 days after the payment forward to the Monitoring Unit of the Exchange Control Department a statement of such payments in the format given in Annex III to this Chapter.
- (f) Authorised dealers are required to forward to the Monitoring Unit of the Exchange Control Department a statement of deposits and withdrawals made as at the end of each month to each SIERA account maintained with the dealer before the 15th day of the succeeding month in the format given in Annex IV to this Chapter.
8. (a) Authorised dealers are permitted to approve applications for the export of share certificates issued by companies listed in the Colombo Stock Exchange in respect of shares purchased by a SIERA account holder out of funds held in that account.
- (b) Applications for such approval shall be accompanied by a certificate issued by the Colombo Stock Exchange containing the following particulars –
- (i) name of the listed company;
 - (ii) name of the seller of shares;
 - (iii) name of the buyer of shares;
 - (iv) number of shares purchased;
 - (v) purchase price of each share;
 - (vi) total amount paid in Sri Lankan rupees for such purchase;
 - (vii) account number of the SIERA and the name of the bank through which payments are made.
- (c) An authorised dealer who approves an application for export under subparagraph (a) shall forward to the Controller the approved applications during a month on or before the 15th day of the succeeding month.
- (d) Applications for export of share certificates issued by unlisted companies or certificates in respect of units in a Unit Trust shall be forwarded to the Controller of Exchange for approval.
9. For the purpose of this Chapter the expressions “resident in Sri Lanka” and “resident outside Sri Lanka” shall be determined in accordance with the directions issued by the Minister of Finance and published in the Government Gazette No, 15,007 of April 21, 1972, a copy of which is contained in Annex II to this Chapter.

REFERENCES

06/02/10/2002 of 8th May 2002

ANNEX I

**THE GAZETTE OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA
EXTRAORDINARY****No.1232/14 of FRIDAY, APRIL 19, 2002 AS AMENDED BY No.1248/19 of THURSDAY, AUGUST 8,
2002****(Published by Authority)****PART I : SECTION (I) – GENERAL****Government Notifications****NOTICE UNDER EXCHANGE CONTROL ACT****(CAP. 423 OF THE CLE)****Permission in terms of sections 7, 10, 11, 15 and 30(5) of the Exchange Control Act,****(Chapter 423 of the CLE)**

1. PERMISSION is hereby granted for the purposes of Sections 10, 11, 15 and sub-section 5 of section 30 as applicable of the Exchange Control Act (Chapter 423 of the CLE), for the issue and transfer of shares in a company upto 100% of the issued capital of such company, to approved country funds, approved regional funds, corporate bodies incorporated outside Sri Lanka and individuals resident outside Sri Lanka (inclusive of Sri Lankans resident outside Sri Lanka) subject to the exclusions, limitations and conditions hereinafter set out.
2. *Exclusions* – The permission hereby granted shall not apply in respect of shares of a company proposing to carry on or carrying on any of the following businesses :
 - (i) Money lending,
 - (ii) Pawn Broking,
 - (iii) Retail trade with a capital of less than one Million U.S. Dollars,
 - (iv) Coastal fishing.
3. *Limitations* – (a) The permission hereby granted shall apply in respect of shares in a company carrying on or proposing to carry on any of the following businesses only upto 40% of the issued capital of such company, or if approval has been granted by the Board of Investment of Sri Lanka for a higher percentage of foreign investment in any company, only upto such higher percentage.
 - (i) Production of goods where Sri Lanka's exports are subject to internationally determined quota restrictions;
 - (ii) Growing and primary processing of Tea, Rubber, Coconut, Cocoa, Rice, Sugar and Spices;
 - (iii) Mining and primary processing of non renewable national resources;
 - (iv) Timber based industries using local timber;
 - (v) Fishing (deep sea fishing);
 - (vi) Mass communications;
 - (vii) Education;
 - (viii) Freight forwarding;
 - (ix) Travel agencies;
 - (x) Shipping agencies.
- (b) The permission hereby granted shall apply in respect of the shares of a company carrying on or proposing to carry on any of the business set out below only up to the percentage of the issued capital of the company for which percentage either general or special approval has been granted by the Government of Sri Lanka or any legal or administrative authority set up for the approval of foreign investment in such businesses .

- (i) Air transportation;
- (ii) Coastal shipping;
- (iii) Industrial undertaking in the second schedule of the Industrial Promotion Act, No. 46 of 1990, namely –
 - any industry manufacturing arms, ammunitions, explosives, military vehicles and equipment aircraft and other military hardware;
 - any industry manufacturing poison, narcotics, alcohols, dangerous drugs and toxic, hazardous or carcinogenic material;
 - any industry producing currency, coins or security documents;
- (iv) Large Scale mechanized mining of gems;
- (v) Lotteries.

4. *Conditions* –

- (a) A person resident outside Sri Lanka who is a party to a transaction permitted hereunder shall make a declaration to the effect that such person is resident outside Sri Lanka on the share transfer form or share application form as applicable.
- (b) The payment for shares in any issue or transaction permitted hereunder shall be made only out of or into a Share Investment External Rupee Account opened in a commercial bank of Sri Lanka in accordance with directions given by the Controller of Exchange in that behalf to commercial banks.
- (c) A commercial bank, a licensed share broker or any other person entrusted with the payment of capital monies such as sale proceeds of shares, dividends and commissions in respect of any transaction permitted hereunder shall make such payment only into or out of a Share Investment External Rupee Account referred to in sub-paragraph (b) above.
- (d) The Secretary/Registrar to a company in which the issue or transfer of shares to persons resident outside Sri Lanka are limited under paragraph 3 shall not register the name of any person resident outside Sri Lanka or a citizen of a foreign state or their nominee as a share holder in such company if by such registration the limits specified in paragraph 3 shall be exceeded.

5. Permission is also hereby granted –

- (a) under section 11 of the Exchange Control Act for the transfer by approved country funds, approved regional funds, corporate bodies incorporated outside Sri Lanka and individuals resident outside Sri Lanka (inclusive of Sri Lankans resident outside Sri Lanka) of shares acquired in terms of paragraph 1 subject to the conditions stipulated in paragraphs 4(a), 4(b) and 4(c);
- (b) under section 7 of the Exchange Control Act for making any payment to or for the credit of a person resident outside Sri Lanka in respect of a transaction permitted hereunder in accordance with the provisions of paragraph 4(c).

6. *General* – Nothing contained in this order shall be construed as affecting or having a bearing on –

- (a) enterprises as defined in the Board of Investment of Sri Lanka Law, No. 4 of 1978 in respect of which exemptions have been granted from the Exchange Control Act, to the extent of such exemption;
- (b) the provisions of any other written law.

7. *Interpretation* – For purposes of this order –

- (i) “Issued capital” shall have the same meaning as in the Companies Act, No. 17 of 1982;
- (ii) “persons resident outside Sri Lanka” shall have the same meaning as in Order published under the Exchange Control Act in Gazette No. 15007 dated 21.04.1972.

8. The notices published in *Gazette Extraordinary* No. 721/4 of 29.06.1992 and *Gazette* No. 1122/12 of 07.03.2000 granting permission for purposes of sections 7, 10, 11, 15 and subsection 5 of section 30 of the Exchange Control Act are hereby rescinded.

H. A. G. HETTIARACHCHI
Controller of Exchange

Colombo,
 19th April, 2002

**THE GAZETTE OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA
EXTRAORDINARY**

No.1122/12 – TUESDAY, MARCH 7, 2000

**NOTICE UNDER THE EXCHANGE CONTROL ACT
(CAP. 423 OF THE CLE)**

**Permission in terms of Sections 7, 10, 11, 15 and Sub-section (5) of Section 30 of the
Exchange Control Act**

1. (a) Subject to the condition contained in paragraph 2, permission is hereby granted for the purposes of Sections 10, 11,15 and sub-section (5) of Section 30 as applicable of the Exchange Control Act (Cap. 423 of the CLE), for the issue and transfer of units in a Unit Trust operated on a licence issued under the Securities & Exchange Commission of Sri Lanka Act, No.36 of 1987 as amended by Act, No.26 of 1991, to persons resident outside Sri Lanka provided that the Trust Deed creating the Unit Trust and the agreement between the Trustees and the Managing Company of such Unit Trust contains a restriction that not more than 20% of the Deposited Property shall be invested in government securities;
- (b) For the purposes of Section 7 of the Exchange Control Act, permission is hereby granted for making any payment to or for the credit of a person resident outside Sri Lanka in respect of a transaction permitted under sub-paragraph (a) and such payment shall only be made in accordance with paragraph 2(c).
2. Conditions :
 - (a) A person resident outside Sri Lanka who is a party to a transaction permitted hereunder shall make a declaration to the effect that such person is resident outside Sri Lanka on the application form for the purchase of units.
 - (b) The payment for the purchase of units in any issue or transaction permitted hereunder shall be made only out of or into a Share Investment External Rupee Account opened in a commercial bank in Sri Lanka in accordance with directions given by the Controller of Exchange in that behalf to commercial banks.
 - (c) A Managing Company, Trustee, Commercial Bank, a Licensed Broker or any other person entrusted with the payment of monies such as redemption proceeds, sale proceeds, monies or commissions in respect of any transaction permitted hereunder shall make such payments only into or out of a Share Investment External Rupee Account referred to in sub-paragraph (b) above.
 - (d) A managing company or any other person who is entrusted with maintaining a register of unit holders or of the issue or transfer of units by any Unit Trust shall not register the name of any person resident outside Sri Lanka or a citizen of a foreign state or their nominee as a holder of units of such Unit Trust unless evidence to the satisfaction of such person is furnished that the terms and conditions applicable to such issue or transfer in terms of this notice have been complied with.
3. Interpretation :
 - (a) “Unit Trust”, “Managing Company”, “Trustee” and “Unit Holder” shall have the same meaning as in the Securities & Exchange Commission of Sri Lanka Act, No.36 of 1987 as amended by Act, No.26 of 1991.
 - (b) “Deposited Property” means all the assets for the time being held or deemed to be held by the Trustee on behalf of the Unit Trust and subject to the provisions of the Unit Trust Deed, but does not include any amount for the time being standing to the credit of the distribution account.

H.A.G. HETTIARACHCHI
Controller of Exchange

Colombo, 7th Day of March, 2000.

ANNEX II

THE CEYLON GOVERNMENT GAZETTE**No.15.007 – Friday, April 21, 1972****The Exchange Control Act**

DIRECTION given by the Minister of Finance, under section 37(1) of the Exchange Control Act (Chapter 423), as amended by Act, No.17 of 1971.

Bernard Soysa,
Acting Minister of Finance.

Colombo, 4th April, 1972.

DIRECTION

For the purpose of determining the residential status of persons under the Exchange Control Act the following provisions shall apply –

1. The following shall be treated as 'resident in *Ceylon' :-
 - (i) Citizens of Ceylon or citizens of foreign countries married to citizens of Ceylon, if the permanent place of abode of such person is Ceylon.
 - (ii) Citizens of Ceylon referred to in paragraph 1(i) above, who have proceeded outside Ceylon temporarily on holiday, business or medical treatment, or for any other similar reason.
 - (iii)
 - (a) The Diplomatic Representative, Consul or Trade Commissioner of the Government of Ceylon resident outside Ceylon (by whatever name or title designated);
 - (b) any person who is a citizen of Ceylon, if he is a member of the staff of any person referred to in subparagraph (a) above, or a member of the staff of a Government Corporation, Institution or a Statutory Board incorporated in Ceylon, serving abroad, except those recruited abroad;
 - (c) any member of the family of any person treated as being resident in Ceylon under sub-paragraph (a) or (b) of paragraph 1 (iii).
 - (iv) Citizens of foreign countries who are in Ceylon, except passengers in transit to other countries or visitors touring the country for pleasure or business.

* Any reference to 'Ceylon' in these Directions is construed as a reference to Sri Lanka.

- (v) Offices and Branches in Ceylon of Companies, Firms, Banks or any other Organisations whether owned by citizens of Ceylon or foreigners.

2. The following shall be treated as 'resident outside Ceylon' ;

- (i) All persons whose permanent place of abode is outside Ceylon including citizens of Ceylon who have made their permanent abode outside Ceylon.
- (ii) Citizens of Ceylon who have emigrated from Ceylon or who have proceeded outside Ceylon for taking up employment or setting up in business or profession.
- (iii)
 - (a) The Diplomatic Representative, Consul or Trade Commissioner in Ceylon (by whatever name or title designated) of the Government of any foreign country;
 - (b) Any member of the staff of any person referred to in subparagraph (a) who is a citizen of the country represented by such Diplomatic Representative, Consul or Trade Commissioner, and is not a person who carries on or exercises in Ceylon any other employment, trade, business, profession or vocation;
 - (c) Any expert, adviser, technician or official whose salary or principal emolument is not payable by the Government of Ceylon and who is brought to Ceylon through any specialised agency of the United Nations Organisation or any organisation approved by the Minister;
 - (d) Any official of the United Nations Organisation, I.M.F, World Bank, I.B.R.D, A.D.B or other similar organisation who is in Ceylon excluding citizens of Ceylon who have been recruited locally.
 - (e) Any member of the family of any person treated as being resident outside Ceylon under subparagraph (a), (b), (c) or (d) of this paragraph.
 - (f) Any trainee from abroad who is sent to Ceylon under any of the Technical Co-operation Programmes of the United Nations Organisation and its specialised agencies or of the Colombo Plan Organisation or of any other organisation approved by the Minister;
 - (g) Personal Representatives, including Attorneys and Administrators when acting solely in that capacity for a deceased person, who at the date of death was resident, for Exchange Control purposes, in a country outside Ceylon;
 - (h) Ceylon Trustees of will trusts or inter-vivos settlements when acting solely in that capacity where the deceased at the time of death, or the settlor at the time the settlement was made, was resident for Exchange Control purposes outside Ceylon.

ANNEX III

**Settlement of Foreign Currency Receipts as Subscriptions to
Primary Issue of Shares / Units**

Name of Company :					
Names of Non-Resident Investors and Country of Residence	Amount of foreign currency remitted through SIERA	No. of Shares/Units allotted	Value paid to Offeror (SL Rupees)	Amount of foreign currency converted to SL Rupees	Amount of foreign currency refunded

.....
*Signature and Stamp of
Authorised Dealer*

ANNEX IV

Share Investments External Rupee Accounts (SIERA)

Statement of Accounts for the Month of 20.....

Name of Account : Account No. :

Date	Particulars	Deposits Rs.	Withdrawals Rs.	Balance Rs.

Date :

.....
*Authorised Dealers Signature***N.B.** : Particulars of deposits and withdrawals should be clearly indicated as given below:Deposits : Inward Remittances, transfers from NRFC/FCBU accounts, sale proceeds of shares/redemption of Units, dividends received, commissions received etc.Withdrawals : Purchase of shares/Units, repatriation of sale proceeds of shares/redemption of Units, repatriation of dividends, repatriation of commissions, payment of brokerage, Account Holder's expenses in Sri Lanka, Bank Charges etc.

Rules For Securities Borrowing and Lending

1. Definitions

- 1.1 "borrower" means a person who borrows securities under these Rules through a participant.
- 1.2 "CDS" means Central Depository Systems (Pvt.) Ltd.
- 1.3 "corporate benefits" shall include dividends, rights, bonus, redemption benefits, interest, or any other right or benefit accruing on the securities lent excluding voting rights.
- 1.4 "CSE" means Colombo Stock Exchange.
- 1.5 "lender" means a person who lends securities under these Rules through a participant.
- 1.6 "participant" means a member organization approved by the Board of Directors of CDS to directly utilise the facilities and services as may be offered by CDS.
- 1.7 "SBL" means securities borrowing and lending.
- 1.8 "SEC" means Securities and Exchange Commission of Sri Lanka established under Act No.36 of 1987 as amended.
- 1.9 "securities" shall mean "eligible securities" unless otherwise specified.
- 1.10 "net capital" shall have the same meaning given in the Member Regulations of the CSE.
- 1.11 "market value" shall mean the current market price of the security at a given point in time.
- 1.12 "marked to market" shall mean the revaluation of the security using the market value of such security as at end of each market day.

2. Eligibility to engage in SBL

- 2.1 Participants are eligible to obtain authorisation from CDS to enter into SBL transactions. Such authorisation will be granted at the sole discretion of the CDS upon an application being made in that respect by a participant and upon such participant fulfilling the requirements set out below.
- 2.2 Participants who are members of the CSE shall:
 - 2.2.1 maintain an additional minimum net capital of Rs.Five (5) million or of such other amount as may be determined by CDS from time to time. This net capital shall be maintained exclusively for the purpose of SBL transactions and shall be in addition to all other net capital requirements as may be specified under the Member Regulations of the CSE;
and
 - 2.2.2 undertake to furnish CDS with a deposit as prescribed in these Rules.
- 2.3 Participants who are Custodian Banks shall:
 - 2.3.1 maintain the required capital adequacy ratio and liquidity requirements as determined by the Central Bank of Sri Lanka from time to time.
and
 - 2.3.2 shall have a minimum of Rs. 250 million as paid up capital and retained earnings.
Or
shall have obtained an investment grade rating from a rating agency acceptable to the CDS.

3. Eligible Securities for SBL

- 3.1 The securities eligible for SBL and the maximum quantity of the issued capital that could be borrowed/lent on each security shall be determined by the CDS from time to time and shall be effective as communicated by the CDS to the participants.
- 3.2 The maximum quantity of a specific security that could be borrowed will be limited to the total amount of the specific security available for lending.
- 3.3 The withdrawal of a security from the list of eligible securities shall not affect the validity of SBL agreements subsisting as at that date. However no new SBL agreements may be entered into in respect of such security after the withdrawal of such security.

4. SBL Agreement

- 4.1 No SBL transaction will be permitted unless such transaction is preceded by a written agreement entered into between the lender, lender's participant, the borrower and the borrower's participant.
- 4.2 A single participant may act both in the capacity of the lender's participant and the borrower's participant, in the event of which obligations and liabilities shall attach to such participant in terms of these Rules according to the capacity in which such participant functions in at any given point in time.
- 4.3 The requisite written agreement between the lender, lender's participant, the borrower and the borrower participant, shall conform to the requirements as may be specified by the CDS from time to time and shall:
 - 4.3.1 make provision for declarations by each of the parties specified above, undertaking strict compliance with these Rules, as would be current at the date on which this agreement is entered into;
 - 4.3.2 identify the particular security and the quantity lent/borrowed;
 - 4.3.3 specify the period for which securities are lent/borrowed. Such period shall however not exceed six months;
 - 4.3.4 make specific provision to the effect that the parties warrant the passing of rights and title to the securities lent and the collateral offered, as appropriate in terms of these Rules;
 - 4.3.5 identify the form and specify the value of the collateral offered and the minimum level at which the collateral should be maintained. Such collateral however shall not fall short of the minimum level prescribed in these Rules;
 - 4.3.6 specify the manner in which income if any, generated from such collateral is to be dealt with;
 - 4.3.7 specify the method by which securities lent are to be returned;
 - 4.3.8 specify the method by which securities are to be returned/recalled should parties agree to such premature return/recall.

5. Requisite Deposit – cash / bank guarantee / securities

- 5.1 Participants who are members of the CSE shall additionally on the execution of the written agreement, deposit with the CDS, cash, irrevocable bank guarantee or government securities, as determined by the CDS from time to time, the minimum value of which shall be 10% of the market value of the securities borrowed. This percentage may be varied by the CDS at its discretion.
- 5.2 In the event two participants, who are members of the CSE, are parties to the transaction, each participant shall be required to furnish a deposit, the minimum value of which shall be 5% of the market value of the securities borrowed. This percentage may be varied by the CDS at its discretion.
- 5.3 The applicable market value of the securities for the purpose of Rules 5.1 and 5.2 shall be the market value of the particular security borrowed at the date on which the written agreement was entered into between the parties.
- 5.4 The CDS may at its sole discretion use the said deposit in the following circumstances:
 - 5.4.1 Where the Borrower fails to return the securities lent and/or corporate benefits:
 - (a) The collateral referred to herein shall be used in the first instance.
 - (b) In the event two participants, who are members of the CSE, are parties to the transaction and the collateral is insufficient to settle the full value of the securities/corporate benefits:
 - (i) The difference in value due shall be made by utilising the deposit furnished by the borrower's participant.
 - (ii) In the event the collateral and the deposit furnished by the borrower's participant is insufficient to settle the full value of the securities/corporate benefits the difference in value shall be made by utilising the deposit furnished by the Lender's participant. However the Lender's participant shall have the right to recover the value of his deposit from the borrower's participant.
 - (iii) In the event the value of the securities/corporate benefits has not been fully settled notwithstanding the above, the Lender's participant shall be liable to settle the difference in value. Such participant shall however have the right to recover the difference in the value settled by such participant from the borrower's participant. The borrower's participant shall have the right to recover the same from the borrower.

- (c) Where a single participant, who is member of the CSE, acts for both the lender/borrower and the collateral is insufficient to settle the full value of the securities/corporate benefits:
 - (i) The difference in value shall be made by utilising the deposit furnished by such participant.
 - (ii) In the event the value of the securities/corporate benefits has not been fully settled notwithstanding the above, such participant shall be liable to settle the difference in value to the lender. Such participant shall however have the right to recover the difference in the value settled by such participant from the borrower.

5.4.2 Where the lender/lender's participant fails to return the collateral, or any part thereof:

- (a) In the event two participants, who are members of the CSE, are parties to the transaction:
 - (i) The value of the collateral due shall be recovered and returned to the borrower by utilising the deposit furnished by the lender's participant, in the first instance.
 - (ii) In the event the said deposit is insufficient to settle the value due, the difference in value shall be made by utilising the deposit furnished by the borrower's participant. The Borrower's participant however shall have the right to recover the value of his deposit from the lender's participant.
- (b) In the event a single participant, who is a member of the CSE, acts for both the lender/borrower such participant's deposit shall be utilised to settle the value due.

6. SBL Transaction

- 6.1 Following the execution of the agreement, the lender's participant shall furnish the CDS with a request made by the Lender in writing according to the specifications prescribed by CDS requesting CDS to transfer such securities to the participant's CDS account, which account shall be exclusively maintained for SBL transactions. Trading will not be permitted on this CDS account.
- 6.2 A copy of the agreement shall be submitted to the CDS with such request.
- 6.3 The lender's participant shall, take all steps necessary to ensure that all corporate benefits shall vest in the lender on the same date as the date on which other securities holders who are entitled to such corporate benefits, would receive such benefits.
- 6.4 The lender's participant shall be entitled to lend securities to borrowers.
- 6.5 The Borrower's participant shall furnish the CDS with a request made by the borrower in writing according to the specifications prescribed by the CDS, requesting the CDS to transfer such securities to the borrower's account in the CDS.
- 6.6 The title of the securities lent to the borrower shall vest in the borrower and the borrower shall be entitled to deal with or dispose of the securities borrowed in any manner whatsoever, subject to the Rules of the CSE and CDS.

7. Collateral

- 7.1 The Borrower's participant shall ensure that the borrower deposits collateral in the manner prescribed hereinafter. Such collateral shall only be in the form of cash, irrevocable bank guarantee, government securities, quoted securities, which are classified in the Milanka Price Index of the CSE or certificates of deposit.
- 7.2 The Lender's participant shall be vested with ownership to such collateral, which shall at all times be held solely for and on behalf of the lender. The Lender's participant shall not use such collateral in any manner other than for or to facilitate the purposes specifically prescribed herein, and shall ensure that the lender's right to the collateral is not prejudiced in any manner whatsoever.
- 7.3 The Lender's participant shall ensure that the value of collateral is maintained at all times in conformity with these Rules.
- 7.4 The securities, which are borrowed, and the collateral offered (including any quoted securities offered) shall be marked to market on a daily basis by the lender's participant.
- 7.5 The Lender's participant shall ensure that at the end of each market day the value of the collateral deposited with such participant shall not be less than 120% of the market value of the securities lent. The prescribed percentage of 120% may be varied at the discretion of the CDS.
- 7.6 Whenever the value of the collateral falls below this minimum stipulated value, the lender's participant shall immediately make a request in writing to the borrower to deposit additional collateral to raise the value of the collateral up to the minimum prescribed level. Such additional collateral shall be deposited by the borrower before the expiry of 2 market days from the date of such written notice.

- 7.7 In the event the borrower fails to maintain the minimum level of collateral as required, the lender's participant shall without notice to the borrower liquidate the collateral and use such liquidated collateral to purchase and return the securities lent together with all corporate benefits.
- 7.8 In the event the borrower fails to return the securities lent and/or the corporate benefits as obliged the lender's participant shall without notice to the borrower liquidate the collateral to purchase and return the securities lent and corporate benefits.
- 7.9 Irrespective of the inadequacy of the liquidated collateral, the lender's participant shall be bound to ensure the return of securities lent and corporate benefits to the lender.
- 7.10 The borrower's participant shall return the collateral to the borrower upon the return of securities and all corporate benefits.

8. Return of Securities

- 8.1 Securities shall always be returned through the CDS account maintained by the participant/s exclusively for the purpose of facilitating SBL transactions. Such securities shall be transferred by way of an internal CDS transfer.
- 8.2 The borrower's/lender's participant shall take all steps necessary and ensure that the lender receives the security lent.
- 8.3 In the event the borrower fails to return the securities lent and/or corporate benefits the borrower's participant shall be liable to return the equivalent securities/corporate benefits. Such participant shall however have the right to recover the value of the equivalent securities/corporate benefits from the borrower.
- 8.4 The borrower's participant shall ensure that the borrower's obligation to return corporate benefits shall extend to all such as may have accrued/arisen during the tenure of the loan of securities. Such obligation shall not cease solely by reason of the fact that the securities lent were returned or that the period for which such securities were lent, lapsed.
- 8.5 The borrower's participant shall be entitled to take any action, as he may deem appropriate against the defaulting borrower.
- 8.6 Subject to the provision of these Rules no party to a transaction may discharge its obligation to return equivalent securities and/or corporate benefits in cash unless such benefit originated in cash.
- 8.7 In the event a security is suspended by the SEC/CSE and the borrower owns no equivalent securities or an inadequate quantity of the securities lent to discharge its obligations in respect of the securities lent the following provisions shall become applicable.
 - 8.7.1 The lender at his sole discretion may demand settlement in cash of the value of the securities and/or corporate benefits as may be returnable in terms of these Rules. The participants shall take all steps necessary to ensure the settlement of the value due.
 - 8.7.2 If the suspension lasts for more than ten market days from and including the due date of return of securities, the borrower shall settle the value of the securities and/or corporate benefits in cash as may be returnable in terms of these rules, and the participants shall take all steps necessary to ensure the settlement of the value due.
 - 8.7.3 If the suspension is for a shorter period than ten market days from and including the due date of return of securities, the securities and/or corporate benefits shall be returned by the borrower before the expiry of three market days from and including the date on which such suspension is lifted.
- 8.8 In the event a security is de-listed by the SEC/CSE and the borrower owns no equivalent securities to discharge its obligations settlement by the borrower shall be in cash.
- 8.9 For the purposes of Rules 8.7 and 8.8 the market value of the security on the last date of trading prior to the suspension/de-listing shall be used in valuing securities and corporate benefits.

9. Other Obligations and Responsibilities of Participants

- 9.1 All securities borrowing and lending shall take place only through a participant.
- 9.2 Participants may lend/borrow securities between themselves.
- 9.3 The participant shall maintain a complete record of all details relating to SBL transactions including a full description of the securities lent/returned, collateral furnished/returned, and parties to each agreement shall be entitled to a monthly statement relating to the current status of the transaction.

- 9.4 In the event a party to an SBL transaction fails to discharge any obligation in terms of these Rules CDS shall be immediately informed of such default by the participant/s.
- 9.5 The passing of collateral between a participant and a borrower shall be recorded, and receipts issued in that respect acknowledging receipt of same.
- 9.6 All records maintained in respect of SBL transactions shall be open for inspection at any time by the SEC, CSE, CDS or any person duly authorised by the CDS for this purpose.
- 9.7 The participants shall maintain and make available to the CDS such information, documents, returns and reports as may be specified by the CDS from time to time.

CHAPTER 6

**RUPEE ACCOUNTS OF NON-RESIDENTS AND
BRANCHES OF FOREIGN CORPORATIONS**

1. An authorised dealer may open and maintain in Sri Lankan Currency any of the following accounts—
 - (a) Non-Resident Rupee Accounts;
 - (b) *Special Rupee Accounts for the purposes of section 10(d) and 15(b) of the Inland Revenue Act No. 28 of 1979;
 - (c) Special Resident Rupee Current Accounts;
 - (d) Rupee Accounts for Non-Resident Sri Lankan Investment (RANSI).

2. Non-Resident Rupee Accounts may be opened for –
 - (a) a national of a foreign country resident outside Sri Lanka;
 - (b) a company or a firm incorporated or established outside Sri Lanka;
 - (c) a national of Sri Lanka, other than an emigrant, resident outside Sri Lanka;
 - (d) a bank incorporated outside Sri Lanka which does not carry on banking activities in Sri Lanka.

3. A Non-Resident Rupee Account held by a person referred to in clauses (a) and (b) of paragraph 2 may be credited with –
 - (a) proceeds of inward remittances in favour of the account holder and converted into Sri Lankan rupees at the prevailing rate of exchange;
 - (b) local credits other than funds derived from capital transactions
 and funds in such an account may be utilised for –
 - (c) outward remittances in respect of current account transactions;
 - (d) local disbursements.

4. A Non-Resident Rupee Account held by a person referred to in clause (c) of paragraph 2 may be credited with –
 - (a) proceeds of inward remittances in favour of the account holder and converted into Sri Lankan rupees at the prevailing rate of exchange;
 - (b) local credits
 and funds in such an account may be utilised for –
 - (c) local expenses; and
 - (d) outward remittances in respect of current account transactions.

- 4A. Authorised dealers may pay interest on funds in Non-Resident Rupee Accounts of persons referred to in clauses (a), (b) and (c) of paragraph 2, other than in current accounts on which money would be withdrawn on demand.

* These accounts are not opened after the enactment of the Inland Revenue Act, No. 38 of 2000.

5. A Non-Resident Rupee Account held by a bank referred to in clause (d) of paragraph 2 may be operated without any restriction.
6. When an authorised dealer is satisfied that a holder of an ordinary rupee account or one or more of the joint holders of such an account is or are resident outside Sri Lanka, the authorised dealer shall redesignate such account as a Non-Resident Rupee Account referred to in paragraph 1(a) and inform the account holder accordingly and thereafter the provisions of paragraph 4 shall apply to such account.
7.
 - (a) A rupee account maintained by a migrant prior to the departure of the migrant from Sri Lanka, shall after the departure be treated as a Non-Resident Rupee Account referred to in paragraph 1(a) until such account is designated as a Blocked Account of the emigrant on instructions issued by the Controller of Exchange.
 - (b) Except with the prior written approval of the Controller of Exchange, funds arising from capital transactions of the emigrant shall not be credited to a Non-Resident Rupee Account referred to in subparagraph (a) nor shall funds in such an account be utilised for outward remittances.
 - (c) Funds in a Non-Resident Rupee Account referred to in subparagraph (a) may be utilised for local disbursements without any restrictions.
8.
 - (a) *Special Rupee Accounts for the purposes of sections 10(d) and 15(b) of the Inland Revenue Act, No. 28 of 1979 may, with the prior approval of the Controller of Exchange, be opened for a national of Sri Lanka employed outside Sri Lanka in the form of a current, savings or fixed deposit account.
 - (b) A Special Rupee Account referred to in subparagraph (a) shall only be credited with proceeds in Sri Lankan currency –
 - (i) of inward remittances of foreign exchange received from the foreign employment of the account holder;
 - (ii) foreign exchange brought into Sri Lanka on arrival by the account holder,
 and, subject to subparagraph (d), funds of such an account may be utilised for local disbursements of the account holder;
 - (c) Funds in a Non-Resident Foreign Currency Account of a person referred to in subparagraph (a) shall not be utilised for the purpose of opening a Special Rupee Account under that subparagraph.
 - (d) Funds in a Special Rupee Account referred to in subparagraph (a) or any money withdrawn therefrom shall not be reconverted into foreign currency either for any outward remittances or for any deposit in a Non-Resident Foreign Currency Account.
 - (e) Any interest payable on funds in a Special Rupee Account referred to in subparagraph (a) or any income derived from the investments of any funds in such account, both of which are exempt from income tax, shall not be credited to such an account.
9.
 - (a) With the prior written approval of the Controller of Exchange, a Special Resident Rupee Current Account may be opened in the name of a company incorporated outside Sri Lanka which seeks registration of a branch office in Sri Lanka.
 - (b) An account opened under subparagraph (a) shall after the registration of the branch office in Sri Lanka be redesignated as a Special Resident Rupee Current Account of the branch office.

* See the footnote at page 17.

- (c) The Controller of Exchange may grant approval for the opening of a Special Resident Rupee Current Account under subparagraph (a) on the production of the following documents by a company incorporated outside Sri Lanka –
- (i) the letter of the Registrar of Companies acknowledging the receipt of the application for registration of the branch office in Sri Lanka;
 - (ii) copy of the Certificate of Incorporation and the Memorandum of Association of the Company;
 - (iii) audited accounts of the company for a period of two years preceding the year in which the application for the opening of the branch office in Sri Lanka is made.
- (d) A Special Resident Rupee Current Account referred to in subparagraph (a) may be credited with –
- (i) proceeds of inward remittances in favour of the account holder and converted into Sri Lankan rupees at the prevailing rate of exchange;
 - (ii) any other sums in Sri Lankan rupees with the prior approval of the Controller of Exchange,
- and funds in such an account may be utilised for –
- (iii) local expenses of the account holder or for transfer to any other rupee account of the account holder;
 - (iv) subject to subparagraph (e), for outward remittances with the prior written approval of the Controller of Exchange.
- (e) Funds in a Special Resident Rupee Account referred to in subparagraph (a) shall not be utilised for outward remittances of any profits or any other fees in connection with the business activities of the account holder.
- 9A. (1) A Rupee Account for Non-Resident Sri Lankan Investment (RANSI) may be opened in the domestic unit of an authorised dealer for citizens of Sri Lanka –
- (a) who have made their permanent place of abode outside Sri Lanka;
 - (b) who have proceeded outside Sri Lanka for employment or setting up in a business or profession and continue to reside abroad,
- for the investment in Sri Lanka of funds in such accounts.
- (2) A RANSI shall be opened only with the proceeds of foreign exchange received through an authorised dealer in favour of the person intending to open that account converted into Sri Lankan rupees at the prevailing rate of exchange.
- (3) A RANSI may be credited with –
- (a) proceeds of inward remittances made by the account holder through banking channels;
 - (b) interest earned on funds lying to the credit of the accounts;
 - (c) income derived from investment of funds in the account;
 - (d) sale or liquidation proceeds of investments of funds in the account (other than proceeds of bearer certificates of deposit.)
- and funds in a RANSI may be utilised -
- (e) for capital funds required for making investment in securities such as shares, government securities, debentures, units in unit trust and other financial assets and real assets including land and building;

- (f) for outward remittances of funds in the account;
 - (g) for local disbursements.
- (4) Payment for investments of funds shall be made by bank drafts drawn in favour of the person or body of persons to whom payment is due in respect of the investment, a record of which shall be kept by the authorised dealer.
 - (5) A RANSI may be held jointly provided all the joint holders are eligible to open a RANSI.
 - (6) Where a RANSI account holder is also the holder of a Non-Resident Foreign Currency Account, movement of funds between a RANSI and a Non-Resident Foreign Currency Account of the account holder is freely permitted, so long as the account holder continues to reside abroad and does not cease to be a citizen of Sri Lanka.
- 9B. Authorised Dealers may pay interest on rupee deposits other than demand deposits, held by foreign passport holders who are resident in Sri Lanka, on Resident Visas.
10. Authorised dealers are required to submit to the Controller of Exchange quarterly statements in respect of Non-Resident Rupee Accounts referred to in paragraph 1(a) and half yearly statements in respect of Special Rupee Accounts referred to in paragraph 1(b) and in respect of RANSI referred to in paragraph 1(d) half yearly statements to Branch D of Exchange Control Department.
 11. In the Chapter, the expression “resident outside Sri Lanka” shall be determined in accordance with the Directions issued by the Minister of Finance and published in the Government Gazette No.15007 of April 21st 1972 (Annex II of Chapter 5).

REFERENCES

- | | | |
|--|---|---|
| Non-Resident Rupee Account | – | EC 79/93(D) of 29th December, 1993 and
06/04/04/2001 of 20th April, 2001 |
| Special Rupee Account | – | EC 04/89(D) of 19th January, 1989
EC 02/95(D) of 22nd February, 1995 |
| Special Resident Rupee
Current Account | – | EC 54/93(C&F) of 25th June, 1993 |
| Rupee Accounts for
Non-Resident Sri Lankan
Investment (RANSI) | – | 06/04/05/2001 of 28th May, 2001 and
06/04/07/2001 of 1st August, 2001 |
| Payment of Interest on Accounts
held by foreign passport
holders resident in Sri Lanka | – | 06/04/03/2002 of 31st January, 2002 |

CHAPTER 7

**SHIPPING, AIRLINE, TOUR OPERATORS AND REGISTERED FREIGHT
FORWARDERS**

1. Authorised dealers may, subject to paragraph 2, open rupee accounts for payments received for passage collections and freight collections by local shipping, airline and tour operators for their foreign principals.
2. Accounts opened under paragraph 1 shall be in the name of the foreign principal and only one account could be maintained in the name of the foreign principal, irrespective of the number of shipping, airline or tour operators working for the principal.
3. A rupee account opened under paragraph 1 may be credited with;
 - (a) passage collections;
 - (b) freight charges;
 - (c) inward remittances received for the purpose of meeting local expenses on behalf of a foreign principal.
4. Outward remittance in foreign exchange from an account opened under paragraph 1 may be freely permitted on production of –
 - (a) the statement of passage collection;
 - (b) cargo or freight manifests;
 - (c) airway bills;
 - (d) debit notes;
 - (e) tax clearance certificate.
5. These accounts shall be non-interest bearing and overdraft facilities on such accounts shall not be granted to the account holder.
6. Shipping, airline and tour operators shall submit to the Controller of Exchange monthly statement of accounts in relation to the transactions referred to in paragraph 1 together with the monthly bank statements in relation to the rupee account maintained under that paragraph on or before the 15th day of the immediately following month.
7.
 - (1) Authorised dealers may open rupee accounts for registered freight forwarders for deposit of payments for or in connection with the performance of the services of freight forwarding for persons resident outside Sri Lanka.
 - (2) Authorised dealers may permit outward remittances in foreign exchange from an account maintained under subparagraph (1) on production of the relevant documents to establish the bona fides of such request for outward remittances.
 - (3) Registered freight forwarders shall submit to the Controller of Exchange a monthly statement in respect of their transactions for each such month in the forms provided by the Controller.
 - (4) In this paragraph “registered freight forwarder” means a person in or resident in Sri Lanka performing the services of freight forwarding for a person resident outside Sri Lanka and registered with the Controller of Exchange in accordance with the

Government Notification published in the *Government Gazette* (Extraordinary) No.641/15 of 20th September, 1990.

- 7A. (1) In addition to the rupee account referred to in paragraph 1, authorised dealers may open a foreign currency account in the domestic unit of an authorised dealer for the purpose of collecting freight paid by section 17 approved BOI companies and exporters, in foreign currency.
- (2) The foreign currency account should be maintained only with same authorised dealer with whom the rupee account referred to in paragraph 1 is maintained.
- (3) All credits of freight payments to such foreign currency account should be by a bank draft or cheque drawn on a foreign currency account held by the Section 17 approved BOI company or the exporter with a bank in Sri Lanka.
- (4) In addition to freight, any inward remittances received in foreign currency from the foreign shipping/air line to meet its local expenses could also be credited to the foreign currency account.
- (5) Any outward remittances from the foreign currency account should be made only after ensuring that the foreign shipping/air line has adequate funds either in its foreign currency account or its rupee account to meet all its liabilities in Sri Lanka including tax payable to the Government. A confirmation from the shipping/air line agent to this effect should be obtained by the bank before making outward remittances to the foreign shipping/air line.
- (6) Authorised dealers should continue to credit freight paid in ruppes to the rupee account maintained on behalf of the foreign shipping/air line.
8. The preceding provisions of this Chapter shall be without prejudice to the right of a foreign principal, as a non-resident, to maintain an account in an off-shore unit of a licensed commercial bank.

REFERENCES

EC 06/94 of 18th March, 1994

EC/D/GL/1994/2 of 18th March, 1994

EC 04/95(G) of 28th February, 1995

EC 06/07/07/2002 of 22nd March, 2002

Government Gazette (Extraordinary) No.641/15 of 20th December,1990

CHAPTER 8

**FOREIGN DIPLOMATIC AND OTHER MISSIONS
AND THEIR FOREIGN STAFF IN SRI LANKA**

1. Authorised dealers may open external accounts in Sri Lankan rupees for foreign diplomatic and other missions and their foreign staff in Sri Lanka.
2. Accounts opened under paragraph 1 may be credited with –
 - (a) inward remittances in convertible foreign currency converted into Sri Lankan rupees at the prevailing rate of exchange;
 - (b) transfers of funds from one such external account to another such external account of the account holder.
3. Funds in an external account opened under paragraph 1 may be utilised for –
 - (a) outward remittances;
 - (b) local expenses in Sri Lanka made through an internal account maintained by the account holder for such purpose;
 - (c) payment for imports;
 - (d) passage and freight payments on production of relevant travel and other documents;
 - (e) issue of foreign exchange;
 - (f) transfer from one external account to another external account of the account holder.
4. The holder of an external account under paragraph 1 shall maintain an internal account for meeting the local expenses of the account holder and funds from such an external account may be transferred to such an internal account. However funds from an internal account shall not be transferred to an external account except with the prior approval of the Controller of Exchange. Funds in an internal account shall not be used for payments involving foreign exchange. Payments involving foreign exchange shall only be made out of funds in an external account maintained under paragraph 1. Authorised dealers may pay interest on funds in an external account or an internal account maintained under paragraphs 1 and 4, other than on funds in a current account on which money would be withdrawn on demand.
5. Cheques drawn on an external account shall be stamped with the word “External” and overdraft facilities on such accounts shall not be permitted except with the prior approval of the Controller of Exchange.

REFERENCE

EC 18/78 (D) of 21st July 1978
ED/35/64 (E) of 15th September 1964
06/04/04/2001 of 20th April 2001

CHAPTER 9

CURRENT (NON-CAPITAL) TRANSACTIONS

1. Authorised dealers may release foreign exchange without restriction for all current (non-capital) transactions after exercising their judgement and discretion and satisfying themselves of the *bona-fides* of such requests for foreign exchange.
2. Current transactions relate to payments or receipts which involve trade in goods and services.
3. Goods include general merchandise, goods for processing and subsequent re-export or re-import, goods for repair, fuel, provisions, stores and supplies.
4. Services include –
 - (a) transportation expenses relating to carriage of passengers, and freight;
 - (b) travel abroad and other expenses relating to such travels;
 - (c) communication services such as postal, courier, radio and telecommunication services;
 - (d) construction services such as design, construction and installation of projects;
 - (e) insurance services such as marine insurance, reinsurance and other types of insurance subject to local regulations relating to insurance; [see paragraph 8 below]
 - (f) financial services which include fees, commissions, brokerage and underwriting charges and other intermediary services;
 - (g) computer and information services which include transactions related to computer and information services;
 - (h) royalties and licence fees;
 - (i) other business services which includes entrepot and other trade related services, rentals for charter of ships, aircrafts, containers and business, professional and technical services;
 - (j) personal, cultural and recreational services which include audiovisual and related services and other personal, cultural and recreational services;
 - (k) government services which include services between governments, international and regional organisations such as embassy expenses and membership subscription;
5. Current transactions also relate to income such as –
 - (b) payments to expatriate employees which include wages, salaries and other benefits paid by employers;
 - (b) investment income which include dividends, interest, rent and profits.
6. Current transactions also include transfers, both government and private, associated with relief efforts such as gifts of food, clothing, other consumable goods and medical supplies.
7. Import of merchandise shall be subject to the special Import Licence No. 1 of 1977 published in *Gazette* Extraordinary No.291/7 of 15th November, 1977 as last amended by the Regulations published in the *Gazette* Extraordinary No.1022/6 of 8th April 1998 issued under the Imports and Exports (Control) Act No.1 of 1969. (Chapter 17)

8. Before approving applications made by a registered insurer in Sri Lanka for making payments of its re-insurance premia to an overseas insurer, the Board of Insurance of Sri Lanka requires authorised dealers to obtain the following documents from the registered insurer –
 - (a) a certified copy of the treaty agreement entered into with the re-insurer or debit/credit notes issued by the re-insurer; and
 - (b) a confirmation by a director or staff member of the local insurer not below the rank of Assistant General Manager to the effect that the amount of re-insurance premium claims to be paid to the overseas insurer is in accordance with the valid agreement/policy entered into with the re-insurer for the purpose of covering the required risk.
9. Capital transactions relate to payments or receipts which involve transfer of real or financial assets by purchase or sale. Foreign exchange release for such capital transactions, save those freely permitted in accordance with guidelines issued by the Controller of Exchange, require the approval of the Controller.

REFERENCES

EC/06/94 of 18th March 1994 (together with the explanatory note annexed to it.)
EC/D/GL/1994/2 of 18th March, 1994
06/02/02/2001 of 13th March, 2001

CHAPTER 10

TRAVEL ABROAD

1. Authorised dealers are hereby permitted, after verifying the bona-fides of the request, to release at their judgement and discretion to persons resident in Sri Lanka foreign exchange for travel abroad in respect of the following purposes –
 - (a) holiday and pilgrimage;
 - (b) business;
 - (c) official;
 - (d) medical;
 - (e) employment;
 - (f) education;
 - (g) to join the spouse;
 - (h) for any purpose against foreign currency encashments (this applies to Sri Lankan citizens as well as foreign passport holders);
 - (i) private training courses, sports, conferences and workshops and similar purposes;
 - (j) Rebate air fares of airline employees;
 - (k) rail and coach fares for internal travel in foreign countries;
 - (l) 1st class passage of Ministers or other high ranking officials.
2. Travel for above purposes may be permitted without any restriction on the number of trips per year or the selection of the airlines.
3. To verify the bona-fides of a request for release of foreign exchange for travel abroad, an authorised dealer may call for any or all of the following documents –
 - (a) for holiday and pilgrimage –
 - (i) a valid visa for the country to be visited, if a visa is required; and
 - (ii) a return air ticket for travel.
 - (b) for business purposes –
 - (i) a valid visa for the country to be visited, if a visa is required; and
 - (ii) a letter confirming the position held by the applicant in the business organisation, whether as director, partner, sole proprietor, or employer;
 - (c) for official purposes –
 - (i) a valid visa for the country to be visited, if a visa is required;
 - (ii) a letter from the Secretary to the Ministry or head of the Government Department or the institution in which the applicant is employed confirming the applicant's nomination for travel for an official purpose; and
 - (iii) letter of approval granted by the President or the Prime Minister, as the case may be, permitting the applicant to leave the country;
 - (d) for medical purposes –

- (i) a valid visa for the country to be visited, if a visa is required;
 - (ii) a letter from a registered medical practitioner that the applicant requires medical treatment;
- (e) for employment –
 - (i) valid employment visa or a valid employment contract;
 - (ii) a one-way ticket to the country of employment;
 - (iii) a letter from the Sri Lankan Bureau of Foreign Employment or from an employment agency registered with the Sri Lankan Bureau of Foreign Employment, as the case may be, confirming that the applicant has been selected for employment;
- (f) for education –
 - (i) a valid visa, if required, as a student for the country to be visited;
 - (ii) a letter of enrolment from a college or university of that country.
- (g) to join spouse –
 - (i) a letter from the spouse of the applicant confirming that the spouse is resident abroad;
 - (ii) a valid visa, if required, for the country of residence of the applicant's spouse.
- (h) against foreign currency encashments –
 - (i) encashment receipt stamped and signed by an authorised dealer; or
 - (ii) documentary evidence of withdrawal of funds from Resident Non National Foreign Currency Accounts, off shore units or from Rupee External Accounts, as the case may be;
- (i) for private training courses –
 - (i) a valid visa, if required, for the country of travel;
 - (ii) a letter of nomination of the applicant from the applicant's employer containing the EPF number of the applicant;
 - (iii) documentary evidence from the training institution of the country of training that the applicant has been accepted for training;
- (j) for sports –
 - (i) valid visa, if required, for the country to be visited;
 - (ii) a letter of nomination of the applicant by the sports body and a letter of recommendation by the Ministry responsible for sports;
 - (iii) where the applicant is a public officer, a letter of approval granted by the President or the Prime Minister, as the case may be, permitting the applicant to leave the country;
 - (iv) where the applicant is a member of the Defence forces or the Police Force, a letter of approval by the Ministry responsible for defence.
- (k) for conferences, seminars and workshops –
 - (i) valid visa, if required, for the country where the conference, seminar or workshop is held;
 - (ii) a letter of invitation for the applicant from that country;
 - (iii) a letter of nomination of the applicant by the employer for participation in the conference, seminar or workshop; or any document showing the applicant's eligibility for such participation;

- (iv) where the applicant is a public officer, letter of approval by the President or the Prime Minister, as the case may be, permitting the applicant to leave the country;
 - (l) Rebate air fares of airline employees, a letter confirming that the air fare will be borne by the airline;
 - (m) rail and coach fares –
 - (i) a remittance inward to meet the cost of rail and coach fares by the airline;
 - (ii) a letter from the airline confirming the cost of the rail and coach fare and the destination of the journey;
 - (n) for first class passage –
 - (i) valid visa for the country to be visited, if required;
 - (ii) a letter of approval by the President or the Prime Minister, as the case may be, permitting the applicant to leave the country;
4. Release of foreign exchange for first class passage is approved for the following persons –
- (a) President;
 - (b) Prime Minister
 - (c) Other Cabinet Ministers
 - (d) Deputy Ministers
 - (e) Secretary to the Cabinet
 - (f) Secretary to the President
 - (g) Secretary to the Prime Minister
 - (h) Secretaries of the Ministries
 - (i) Secretary General of Parliament
 - (j) High Commissioners and Ambassadors
 - (k) Head of the Security Division of the President and Prime Minister or the senior officer of the division when accompanying the President or Prime Minister on an official visit abroad;
 - (l) Judges of the Supreme Court;
 - (m) The spouse of a Minister or Deputy Minister while accompanying the Minister or Deputy Minister on an official visit abroad;
 - (n) Auditor General;
 - (o) Governor of the Central Bank of Sri Lanka.
5. Release of foreign exchange for purposes of education include living expenses, tuition fees and cost of text books. Remittances for tuition fees should be made in the name of the relevant educational institution.
6. Authorised Dealer shall ensure that travellers cheques issued for purpose of travel to any person are signed by such person in the presence of an officer of the authorised dealer prior to their issue to such person.
7. Authorised Dealers may, for the purpose of travel abroad, release a reasonable amount of foreign exchange in the form of currency notes depending on the nature and the purpose of the request and may refuse such request if the amounts are unreasonably large in relation to the purpose or the request relate to illegal transactions.

8. Authorised Dealers are required to forward to the Department of Exchange Control on a weekly basis, on the Form approved by the Controller of Exchange, all sales of foreign exchange for the purposes specified in paragraph 1.
9. In this Chapter the expression “resident in Sri Lanka” shall be determined in accordance with the Directions issued by the Minister of Finance and published in the Government Gazette No.15007 of April 21, 1972. (Annex II of Chapter 5)

REFERENCES

EC 57/93 (K&E) of 21st July 1993
EC 66/93 (D) of 26th August 1993
EC 80/93 (D) of 27th December 1993
EC 06/94 of 18th March, 1994
ECD/GL/1994/02 of 18th March, 1994

CHAPTER 11

REMITTANCE OF FAMILY MAINTENANCE

1. Persons resident in Sri Lanka may remit expenses for the maintenance of their families living abroad.
2. Authorised dealers may at their judgement and discretion release a reasonable amount of foreign exchange to cover the expense of maintenance of the members of a resident's family.
3. A resident applying for release of foreign exchange for the purpose mentioned in paragraph 1 shall release to the authorised dealer documents required by the authorised dealer to establish the bona fides of the purpose.

REFERENCES

EC 41/93 (D) of 29th March, 1993

EC 78/93 (K) of 24th December 1993

EC 06/94 of 18th March, 1994

EC/D/GL/1994/02 of 18th March, 1994

CHAPTER 12

PURCHASE AND SALE OF FOREIGN CURRENCY

1. Any purchase by an authorised dealer of foreign exchange by way of inward remittance of a sum of United States Dollars 5,000 or more or its equivalent in other foreign currencies shall be reported by the authorised dealers to the Controller of Exchange on Form 2 in accordance with guidelines issued by the Controller. Where any such purchase does not exceed United States Dollars 5,000 or its equivalent in other foreign currencies, the person who sells such currency is not required to complete Form 2, but the authorised dealers shall report all such purchases on a weekly basis in the form of a consolidated statement in accordance with the operating instructions issued by the Controller.
2. Copies or duplicates of encashment receipts shall not be issued to persons encashing foreign currency received by them.
3. (1) Where Sri Lankan currency is received by a foreign passport holder on the sale of foreign currency to an authorised dealer or a money changer, such Sri Lankan currency as may be unused by the passport holder may, on the production of the original encashment receipt, be converted into –
 - (a) foreign currency notes or coins with an authorised dealer at the port or airport from which the passport holder departs from Sri Lanka;
 - (b) foreign exchange in the form of drafts, telegraphic transfers or travellers cheques with any authorised dealer.
- (2) Conversion into foreign exchange under subparagraph (1) shall be in the same currency in which it was encashed with an authorised dealer or money changer.
- (3) The encashment receipt submitted under subparagraph (1) shall be cancelled, by the authorised dealer reconverting the currency, with the endorsement “funds recovered”.
4. Authorised dealers may return inward remittances received in Sri Lanka but unutilised and later recalled by the remitter.
5. All sales of foreign exchange by authorised dealers shall be reported by the authorised dealers to the Controller of Exchange on Form I in accordance with guidelines issued by the Controller. The indication of the Income Tax File Number would be necessary only in the case of sale of foreign exchange in excess of United States Dollars 5,000 or its equivalent in other foreign currency.

REFERENCES

EC 98/92 (D) of 22nd September, 1992
EC 06/94 of 18th March, 1994
EC/D/GL/1994/02 of 18th March, 1994
EC/07/98/MU of 24th December, 1998
EC/10/99/MU of 17th December, 1999
EC/01/2000/MU of 11th January, 2000

CHAPTER 13

**RELEASE OF FOREIGN CURRENCY NOTES TO
SHIP CHANDLING TRADE AND FOR CREW WAGES**

1. Authorised dealers may issue foreign currency notes to ship chandlers for payment of gratuity to masters of vessels and other ship personnel on submission of invoices detailing the total value of gratuity entitlement. The present ceiling on gratuity payments is equivalent to ten per centum of the rebated invoice value.
2. Authorised dealers may issue foreign currency notes to masters of vessels for payment of crew wages against inward remittance or from surplus funds available in the rupee accounts maintained by the shipping agency under Chapter 7.
3. Before release of foreign currency notes under paragraphs 1 and 2 authorised dealers shall satisfy themselves about the bonafides of the request and may refuse such requests where the amount requested is unreasonably large or the request relates to illegal transactions.

REFERENCES

EC 06/94 of 18th March, 1994

EC 14/94 (G) of 16th June, 1994

CHAPTER 14

**CREDIT FACILITIES TO FOREIGN CONTROLLED COMPANIES
AND GUARANTEES INVOLVING PAYMENTS IN FOREIGN EXCHANGE**

1. A loan, overdraft or other credit facility by a person resident in Sri Lanka to a firm or company (other than a banking company) controlled directly or indirectly by persons resident outside Sri Lanka require the general or special permission of the Controller of Exchange.
2. Authorised Dealers, National Development Bank of Sri Lanka or DFCC bank may grant credit facilities in Sri Lankan rupees to a company incorporated in Sri Lanka including a company which is an enterprise falling within section 17 of the Board of Investment of Sri Lanka Law [BOI enterprise], notwithstanding that a majority of its shares is owned by persons resident outside Sri Lanka and where any credit facility is granted to such company in terms of the general permission granted, the licensed commercial bank by or through whom such facility is granted shall forward to the Monitoring Unit of the Exchange Control Department the particulars relating to such facility for each quarter on or before the 15th day of the month following each such quarter in which the facility is granted. Such quarterly statements shall state the facility granted to BOI enterprises separately from other companies.
3. Subject to paragraph 2, credit facilities to be granted by other persons to a firm or company, other than a banking company, controlled directly or indirectly by persons resident outside Sri Lanka, require the prior permission of Controller of Exchange.
4. An application under paragraph 3 shall contain the following documents and information –
 - (a) name and address of the company or firm;
 - (b) nature of its business in Sri Lanka;
 - (c) percentage of its non resident shareholders or partners;
 - (d) amount of and the period for which the loan, overdraft or other facility is to be granted;
 - (e) purpose for which the loan, overdraft or other facility is required;
 - (f) a certified copy of the balance sheet and the profit and loss account of the firm or company for the accounting year immediately preceding the date of the application;
 - (g) actual figures relating to cash flow of such company or firm for the period of six months preceding the date of application and estimated figures for six months following that date;
 - (h) maximum amount overdrawn (if any) each month by the company or firm for the six months period immediately preceding the application.
5. On approval of the application made under paragraph 3, the Controller of Exchange will inform the authorised dealer through whom the application is made of the approval and the ceiling up to which and the period for which the money may be lent or other credit facility may be granted.

6. Where an extension of the period of an approved credit facility is sought by a firm or company, the application for extension shall be made not less than one month before the expiration of the period together with the information and documents referred to in paragraph 4, so as to minimise delays in approval.
7. The issue of a guarantee by a person resident in Sri Lanka in respect of any debt or other obligation or liability of a person resident outside Sri Lanka requires the general or special permission of the Controller of Exchange.
8. The Controller of Exchange has granted permission to authorised dealers to issue or renew any guarantee the implementation of which would involve payment of Sri Lankan rupees remittable to a person resident outside Sri Lanka in foreign exchange or payments outside Sri Lanka in foreign currency for export purposes and to make payments in respect of claims on any such guarantee.
9. The issue or renewal of a guarantee under paragraph 7, other than for the purposes specified in paragraph 8, require the general or special permission of the Controller of Exchange.
10. Authorised dealers are required to submit monthly statements in respect of approved loans, overdrafts and other credit facilities under this Chapter and the issue and renewal of guarantee under paragraph 8 of this Chapter.
11. In this Chapter, the expressions “resident in Sri Lanka” and “resident outside Sri Lanka” shall be determined in accordance with the Directions issued by the Minister of Finance and published in the Government Gazette No.15007 of April 21st 1972 (Annex II of Chapter 5).

REFERENCES

- EC 81/92 (D) of 7th August 1992
- EC 118/92 (C&F) of 24th December 1992
- EC 06/94 of 18th March, 1994
- EC/D/GL/1994/02 of 18th March, 1994
- EC 01/99 (C&F) of 9th February, 1999
- 06/02/01/2003 of 21st January, 2003

CHAPTER 15

FOREIGN CURRENCY LOANS TO EXPORTERS

1. Subject to paragraphs 2 to 4 of this Chapter –
 - (a) authorised dealers are permitted to grant to an exporter of goods and services (hereinafter referred to as “direct exporter”) loans in foreign currency out of funds available in their off-shore or domestic banking units.
 - (b) the National Development Bank and the DFCC Bank are permitted to grant to a direct exporter loans in foreign currency, provided that each such bank granting the loan has foreign exchange lines of credit to do so.
2. A loan to a direct exporter may be granted to meet the working capital and fixed capital requirements of the exporter without any restrictions on the duration of the period of the loan.
3. Before a loan is granted to a direct exporter, an authorised dealer or the National Development Bank or the DFCC Bank, as the case may be, shall satisfy itself that the exporter has adequate foreign currency exposure to meet its working capital and fixed capital requirements and of the *bona fides* of the direct exporter and shall be prudent and use its own judgement in making such a decision.
4.
 - (1) A loan granted to a direct exporter shall be repaid together with the interest thereon in foreign currency and may be paid from funds in the Exporters Foreign Currency Account of the exporter maintained under Chapter 4.
 - (2) In cases of default of payment in foreign currency of the loan, every endeavour shall be made to sell the assets mortgaged as security for the loan for a consideration in foreign currency. If such endeavour is unsuccessful authorised dealers may convert rupee sale proceeds of the assets into foreign currency. Authorised Dealers shall obtain and retain satisfactory evidence that attempts to sell the assets against foreign currency to another party have failed and that assessment of credit risk at the time of granting the loan has been properly done.
5. Subject to paragraphs 6 to 8 of this Chapter authorised dealers are hereby permitted to grant loans in foreign currency out of funds available in their off-shore or domestic banking units to suppliers of accessories to direct exporters for the purpose of importing the inputs required to manufacture the accessories (such suppliers being hereinafter referred to as “indirect exporters”).
6. Loans granted to an indirect exporter supplying accessories to enterprises approved by the Board of Investment of Sri Lanka, shall be based on confirmed orders placed with the indirect exporter by such enterprises payable in foreign currency and shall be repaid in foreign currency received from those orders.
7. Loans granted to an indirect exporter supplying accessories to a direct exporter, other than an enterprise approved by the Board of Investment in Sri Lanka, shall be based on –
 - (a) domestic rupee letters of credit opened by the direct exporters in favour of the indirect exporter; or
 - (b) confirmed orders placed by the direct exporter with the indirect exporter in which the values are given in rupees,

and shall be repaid by conversion into foreign currency of rupee proceeds obtained on the documents specified in subparagraph (a) or (b).

8. There shall be no restrictions on the duration of the period of the loan granted to an indirect exporter.
9. Authorised dealers may open and maintain in their off-shore banking units accounts for the direct exporters and indirect exporters for the purpose of crediting foreign currency loan proceeds granted under this Chapter and for the repayment of such loans.
10. Authorised dealers, National Development Bank and the DFCC Bank are required to send to the Monitoring Unit of Exchange Control Department a quarterly statement of the foreign currency loans granted under this Chapter before the 15th day of the month following each such quarter.

REFERENCES

ECA/02/97 (C&F) of 3rd January, 1997
ECA/03/97 (C&F) of 3rd January, 1997
EC/02/98 (C&F) of 31st July, 1998
EC/05/2000D of 7th April, 2000
ECD/F/D/1488 of 4th April, 2000
06/02/03/2003 of 21st January, 2003

CHAPTER 16

EMIGRANTS

1. A citizen of Sri Lanka leaving Sri Lanka to take up permanent residence in any other country, hereafter referred to as an “emigrant”, is entitled to the following foreign exchange facilities on the departure of the emigrant from Sri Lanka and authorised dealers are permitted subject to the restrictions stated in paragraph 2 to grant those facilities –
 - (a) cost of passage to the country of intended residence;
 - (b) foreign exchange allowance;
 - (c) transfer of funds realised from capital assets of the emigrant;
 - (d) cost of transport of goods by sea.
2.
 - (a) The cost of passage and cost of transport of goods by sea are limited to the cost of passage by the most direct route certified by a travel agent and the cost of transport of goods by sea certified by a freight agent.
 - (b) Authorised dealers may at their judgement and discretion release a reasonable amount of foreign exchange not exceeding United States Dollars two thousand as an exchange allowance for each individual emigrant.
 - (c) Transfer of funds realised from capital assets is limited to a sum of rupees seven hundred and fifty thousand for each individual emigrant subject to a ceiling of rupees one million per family.
3. An emigrant is required to submit the following documents in applying for the foreign exchange facilities under paragraph 1 –
 - (a) an affidavit by the emigrant declaring –
 - (i) the final and irrevocable decision of the emigrant to leave Sri Lanka for permanent residence abroad;
 - (ii) the date of intended departure;
 - (iii) that the emigrant is not a director of any company incorporated in Sri Lanka;
 - (iv) that the emigrant is or is not a tax payer in Sri Lanka.
 - (b) an income tax clearance certificate in the case of a emigrant who is a tax payer in Sri Lanka or, in the case of a non-payer of tax, if the total remittance exceeds rupees five hundred thousand or in the case of transfer of funds realised from capital assets;
 - (c) in the case of an emigrant who was employed immediately prior to departure, a letter from the employer accepting the resignation of the emigrant;
 - (d) a certified copy of the passport of the emigrant and of the immigration visa to the country of destination, if such immigration visa is required in that country.
4.
 - (a) An emigrant on departure from Sri Lanka is also entitled to the following facilities –
 - (i) export of personal effects other than personal jewellery, up to a reasonable amount;
 - (ii) export of personal jewellery to the value of rupees one hundred and fifty thousand per married female, rupees sixty thousand per unmarried female above

the age of 12 years, rupees thirty thousand per female under the age of twelve years and rupees thirty seven thousand five hundred per male.

- (b) For the purpose of export of personal effects under clause (i) of subparagraph (a) the emigrant shall submit a list of the items in triplicate together with their value, which in the case of items of archeological value shall be obtained from the department of the Commissioner of Archeology, and an export licence from the Controller of Imports and Exports in respect of items that require such a licence.
 - (c) For the export of personal jewellery under clause (ii) of subparagraph (a) the emigrant shall submit a list of the items in triplicate together with their value declared by the National Gem and Jewellery Authority or by a recognised jeweller and appraised by the Customs.
5. (a) An authorised dealer may permit an emigrant, after his departure from Sri Lanka, to remit the full value of the income of the emigrant (including the interest and rent) derived from any investment made by the emigrant in Sri Lanka and the interest earned on funds in a blocked account maintained by the emigrant, after deduction of taxes payable by the emigrant.
- (b) Any application for remittance of any other funds after the emigrant's departure from Sri Lanka shall be forwarded to the Controller of Exchange for approval and such remittance shall be made from a blocked account in the name of the emigrant.
6. (a) All payments made to or to the credit of a person resident outside Sri Lanka shall only be paid or credited to a blocked account.
- (b) Payments made to or credited to a blocked account shall to the extent of the payments made or credited be a good discharge to the person from whom the sum is due.
- (c) Subject to paragraph 5 any sum standing to the credit of a blocked account shall not be dealt with except with the permission of the Controller of Exchange.

REFERENCES

EC 30/92 (M) of 16th March 1992

EC 13/93 (M) of 15th January 1993

EC 41/93 (D) of 29th March 1993 and guidelines attached to it

EC 77/93 (M) of 24th December 1993

F/D/909 dated 26th October, 1994 of the Department of Inland Revenue

CHAPTER 17

IMPORTS AND EXPORTS

1. This Chapter shall be read along with Chapter 9 (Current [Non-Capital] Transactions).
2. (1) Subject to paragraph 4, import of goods for commercial purposes shall be made on one of the following terms of payments –
 - (a) documents against payment (D/P);
 - (b) documents against acceptance (D/A);
 - (c) letters of credit (L/C);
 - (d) advanced payments where value of goods imported does not exceed United States Dollars Seven Thousand Five Hundred (CIF) or its equivalent in other convertible foreign currencies except that the above limit on the value shall not apply to advanced payments for Gold Harmonised Systems Code 71.08 where the application for the remittance is certified by the National Gem and Jewellery Authority;
 - (e) consignment account basis where the goods imported are books and periodicals or ornamental fish imported for purpose of re-export.
- (2) As the establishment of letters of credit for payment for imports is not mandatory, it will not be necessary for authorised dealers to forward Form E2 in respect of such letters of credit to the Director of Statistics of the Central Bank.
3. The importers, licensed commercial banks through which shipping documents are released to importers and the Director General of Customs shall comply with the relevant procedures before and after the release to the importers of the goods imported under clauses (a), (b) and (c) of paragraph 2.
4. (1) Paragraphs 2 and 3 shall not apply to –
 - (a) import of goods in non-commercial quantities for personal use of the importer where the value of the goods does not exceed United States Dollars Three Thousand (CIF) or its equivalent in other convertible foreign currencies; importer of such goods shall furnish to the Director General of Customs proof of payment before release of goods;
 - (b) gifts or trade samples where value does not exceed United States Dollars One Thousand (CIF) or its equivalent in other convertible foreign currencies;
 - (c) import of the following goods –
 - (i) pearls; (71.01)
 - (ii) diamonds; (71.02)
 - (iii) gems; (71.03)
 - (iv) synthetic gems; (71.04)
 - (v) diamond and other powder; (71.05)
 - (vi) silver; (71.06)
 - (vii) metal clad with silver; (71.07)
 - (viii) metal clad with gold; (71.09)
 - (ix) platinum; (71.10)

- (x) metal clad with platinum; (71.11)
- (xi) scrap precious metal; (71.12)
- (xii) jewellery finding; (71.13)
- (xiii) imitation jewellery finding; (71.14),

where –

- (d) the import does not involve payment in foreign exchange out of Sri Lanka in which event the Director General of Customs may release the goods on tender of the relevant clearance documents certified by the importer that the goods are for re-export; or
- (e) the import is on a consignment account basis provided the necessary declarations to the National Gem and Jewellery Authority are made by the importer.

- (2) Payment for goods imported on a consignment account basis in accordance with clause (e) of subparagraph (1) may be made by a licensed commercial bank on tender of the necessary documents issued by the National Gem and Jewellery Authority.
- (3) Import of goods as gifts or without any payment of foreign exchange out of Sri Lanka the value of which exceeds United States Dollars One Thousand (CIF) or its equivalent in other convertible foreign currencies require the approval of the Controller of Exchange.

5. Gold may be imported into Sri Lanka on consignment account basis by –

- (a) a licensed commercial bank; or
- (b) a limited liability company approved by the Controller of Exchange –
 - (i) which is primarily engaged in trading of gold or manufacturing gold jewellery or other gold products for exports;
 - (ii) which has a paid up capital of not less than Rs. 10 million;
 - (iii) which has a good financial track record for not less than three years; and
 - (iv) which has experience in gold trading for not less than three years

subject to such conditions as may be imposed by the Controller of Exchange from time to time. (see Chapter 19, paragraph 8).

6. Pursuant to the Order made by the Minister of Finance under section 22(3) of the Exchange Control Act and published in the Government *Gazette* (Extraordinary) No. 813/14 of 7th April, 1994, permission from the Exchange Control Department is no longer necessary under section 22(3) of the Exchange Control Act for the export of any goods from Sri Lanka.

7. (1) Authorised dealers may approve application for import of goods for Entrepot Trade on D/P and D/A terms without letters of credit being established subject to the following conditions –

- (a) Goods imported to be stored in a customs bonded warehouse until they are re-exported to a third country;
- (b) Re-packing/labeling/sample processing of goods imported to be carried out in the customs bonded warehouse before re-exported to a third country;
- (c) Exportation of goods directly from a second country to a third country without the goods physically arriving in the Entrepot Trader's country;

- (d) Transfer from one ship/aircraft to another within the port without the cargo being taken into a bonded warehouse.
 - (2) Import of following goods for re-export under Entrepot Trade is prohibited-
 - (a) Textile fabric;
 - (b) Garments
 - (c) Narcotics
 - (d) Arms and Ammunition
 - (3) Import of cloves for re-export is permitted except for re-export to member countries with which Sri Lanka has preferential arrangements such as GSP donor countries, or under the Bangkok Agreement, Global System of Trade Preferences, SAARC Preferential Trading arrangements and Free Trade Agreement with India and the cloves are treated as goods originated from the country from which they are imported and not as products originating from Sri Lanka.
 - (4) Re-export of goods under Entrepot Trade should be permitted on letters of credit or D/P terms or against advance payment terms and payment received from the buyer in respect of re-export should only be in convertible currencies.
8. Authorised dealers may, in their discretion for prudential reasons, reject any prepayment of an import bill before the date of maturity on which the payment of the bill is due.
9. Importers resident in Sri Lanka may purchase goods from suppliers resident outside Sri Lanka on credit basis upto a period of 360 days subject to the condition that no interest should be paid on such credit at a rate higher than the prevailing international interest rates for the currency in which the credit is provided.
10. Authorised Dealers are permitted to sell foreign exchange upto US \$ 15,000/- as advance payments to registered gem dealers proceeding to Madagascar and Myanmar to meet their cost of purchasing gems and personal expenses in those countries where it is recommended by the National Gem and Jewellery Authority after obtaining an undertaking to the following effect—
- (a) he would bring into Sri Lanka, gems purchased out of exchange released within 45 days of the release of exchange and submits a self prepared invoice in triplicate giving details of the quantity and value of rough gem stones, endorsed by the Sri Lanka Customs (one copy should submit to the National Gem and Jewellery Authority within 60 days of release of foreign exchange);
 - (b) he would bring into the country all unutilized foreign exchange and surrender such foreign exchange to an Authorised Dealer within 07 days of his arrival (evidence to this effect should be presented to the Authorised Dealer from whom foreign exchange was purchased); and
 - (c) he would submit a complete statement of accounts in the prescribed format within 60 days of release of foreign exchange.

All instances of gem dealers failing to comply with any of the above undertakings and requirements should be reported by the Authorised Dealer from whom foreign exchange was purchased, to the Exchange Control Department and to the National Gem and Jewellery Authority within 03 months from the date of release of exchange.

REFERENCES

Government *Gazette* (Extraordinary) No.291/7 of 15th November, 1977

Government *Gazette* (Extraordinary) No.1022/6 of 8th April, 1998

Government *Gazette* (Extraordinary) No.813/14 of 7th April,1994

EC 11/94 (H) of 5th May, 1994

EC 02/99 (B) of 24th February, 1999

Government *Gazette* (Extraordinary) No. 1186/18 of 31st May, 2001

EC/26/93 (H) of 25th February 1993 and 06/05/06/2001 of 30th July, 2001 [Entrepot Trade]

Letter dated 17th August 2001 issued jointly by the Controller of Exchange and the Director of Bank Supervision on prepayment of Import Bill.

06/05/02/2003 of 21st January, 2003

06/05/01/2004 of 6th January, 2004

06/05/04/2004 of 24th August, 2004

CHAPTER 18

OFF-SHORE BANKING

1. Off-shore banking business is being carried on by the off-shore unit of a licensed commercial bank authorised by its licence under the Banking Act to carry on off-shore banking business.
2. Off-shore banking business is being regulated in accordance with the Banking (Off-shore Banking Scheme) Order, 2000 made by the Monetary Board under the Banking Act, a copy of which is contained in Annex 1 to this Chapter.
3. The Controller of Exchange has permitted off-shore units of a licensed commercial banks to carry on off-shore banking business in accordance with the Operating Instructions EC/04/2000/D issued by the Controller on 7th April 2000, a copy of which is contained in Annex II to this Chapter.

ANNEX I

**Banking Act, No. 30 of 1988 as Last Amended by
Banking (Amendment) Act, No. 33 of 1995**

Banking (Off-shore Banking Scheme) Order, 2000

Order relating to off-shore banking business carried on by licensed commercial banks, made under sections 23, 25 and 26 of the Banking Act, by the Monetary Board, with the approval of the Minister.

Sgd. A. S. Jayawardena
Governor
Central Bank of Sri Lanka

Colombo
7th April, 2000

Banking (Off-shore Banking Scheme) Order, 2000

1. This Order may be cited as the Banking (Off-Shore Banking Scheme) Order, 2000. Citation.
2. (1) An off-shore unit may, subject to this Order and to any other written law, carry on all or any of the businesses specified in paragraphs (a) to (e) of Section 25 of the Act. Authorised Businesses.

- (2) In accepting any contingent liability under Section 25(c) of the Act, an off-shore unit shall only engage in any or all of the following transactions—
- (a) establish, open or advise letters of credit expressed in any designated foreign currency;
 - (b) issue or renew guarantees, indemnities or similar undertakings expressed in any designated foreign currency;
 - (c) acceptances expressed in any designated foreign currency.

Withdrawal of funds.

3. Funds of an account maintained with an off-shore unit shall not be withdrawable by cheque.

Authorised Business with Residents.

4. (1) An off-shore unit may, subject to this Order and any other written law, engage in off-shore banking business specified in paragraph 2 with any one or more of the following residents—
- (a) the Central Bank of Sri Lanka;
 - (b) a licensed commercial bank;
 - (c) subject to sub paragraph (3), a BOI enterprise;
 - (d) any other resident approved by the Monetary Board in the interest of national economy, subject to such conditions as the Monetary Board may impose.
- (2) Without prejudice to the rights conferred under this Order on a resident specified in subparagraph (1), an off-shore unit may, subject to any other written law, grant loans in any designated foreign currency to any resident, being an exporter of goods and services from Sri Lanka or to any resident, being a supplier of accessories to such exporter as may be approved by the Monetary Board and may discount export bills expressed in any designated foreign currency for such an exporter.
- (3) An off-shore unit shall not grant a loan in foreign currency to a BOI enterprise unless the off-shore unit is satisfied that the BOI enterprise has the capacity to repay the loan in foreign currency.

Permitted deposits in an account of a non-resident.

5. An account maintained by a non-resident in an off-shore unit shall only be credited with funds received on inward remittances in any designated foreign currency.

Assets and liabilities of an off-shore unit.

6. The total assets and liabilities of an off-shore unit shall not exceed such amount as may be determined by the Monetary Board.

Particulars of executive officers and undertaking.

7. A licensed commercial bank shall—
- (a) prior to commencement of off-shore banking business,

furnish to the Director of Bank Supervision the names, qualifications and banking experience of all executive officers of the off-shore unit of the bank and notify forthwith any changes, if any, in such particulars thereafter; and

- (b) in the case of a commercial bank incorporated outside Sri Lanka, furnish the Director of Bank Supervision, if required by the Monetary Board, a written undertaking from its Head Office stating that such bank shall provide such funds in such designated foreign currency as may be necessary to meet all obligations and liabilities incurred in carrying on of its off-shore banking business.

8. Books, other documents and records maintained by the off-shore unit of a licensed commercial bank shall be kept separate from other books, documents and records maintained by the bank and the off-shore unit shall, if so required by the Monetary Board, furnish the Central Bank information from such books, documents and records maintained by the off-shore unit. Books etc. off-shore units.

9. In this Order— Interpretation.

“BOI Enterprise” means a company with which an agreement has been entered into by the Board of Investment of Sri Lanka under Section 17 of the Board of Investment of Sri Lanka, Law No. 4 of 1978 and which has been granted approval to transact business with any off-shore unit;

“designated foreign currency” means the foreign currency set out in the Schedule to this Order;

“off-shore unit” means an off-shore unit of a licensed commercial bank carrying on off-shore banking business of the bank under this Act and includes any unit which carried on off-shore banking operations under the “Foreign Currency Banking Scheme” established by the Monetary Board;

“resident” and “non-resident” shall have the same meaning assigned to them in Section 86 of the Banking Act, No. 30 of 1988.

SCHEDULE

Designated Foreign Currencies

- | | | |
|----------------------|-----------------------|--------------------------|
| 1. Australian Dollar | 6. French Franc | 11. Pound Sterling |
| 2. Canadian Dollar | 7. Hongkong Dollar | 12. Singapore Dollar |
| 3. Danish Kroner | 8. Japanese Yen | 13. Swedish Kroner |
| 4. Deutsche Mark | 9. Netherland Guilder | 14. Swiss Franc |
| 5. Euro | 10. Norwegian Kroner | 15. United States Dollar |

ANNEX II

Operating Instructions

Ref. No. EC / 04 / 2000 (D)

Department of Exchange Control
 Central Bank of Sri Lanka
 61 Janadhipathi Mawatha
 P.O. Box 883
 Colombo 1.

7th April, 2000

*To : All Licensed Commercial Banks***OFF-SHORE BANKING BUSINESS**

1. Licensed commercial banks are hereby permitted to carry on, subject to these instructions, off-shore banking business in accordance with the Banking (Off-shore Banking Scheme) Order 2000 issued under the Banking Act, No. 30 of 1988 and amended by Banking (Amendment) Act, No. 33 of 1995 (hereinafter referred to as the "Order").

2. Any loan granted under paragraph 4(2) of the Order in any designated foreign currency by an off-shore unit of a licensed commercial bank to a resident, being an exporter of goods and services from Sri Lanka, other than a BOI Enterprise, or to a resident, not being a BOI Enterprise, who is a supplier of accessories to such exporter, shall be in accordance with the instructions to Authorised Dealers No. ECD/02/97 (C&F) and ECD/03/97 (C&F) dated 03.01.1997 and EC/02/98 (C&F) dated 31.07.1998* relating to foreign currency loans to direct and indirect exporters issued under the Exchange Control Act and shall not exceed such limits as may be imposed by the Central Bank of Sri Lanka and communicated to each licensed commercial bank by the Chief Accountant of the Central Bank and any reference in these operating instructions to Foreign Currency Banking Units shall be a reference to Off-Shore Units.

3. (a) An accommodation extended to a resident under paragraph 4(1) of the Order, not being an exporter or supplier of goods to such an exporter referred to in paragraph 2 of these instructions, by an off-shore unit which is authorised to engage in off-shore banking business with such resident under the Order, shall be extended solely for the operations of such resident in Sri Lanka and for no other purpose whatsoever.

(b) An accommodation granted under sub-paragraph (a) to a resident, being a licensed commercial bank or any other resident approved by the Monetary Board under paragraph 4(1)(d) of the Order, shall not exceed such amount as may be determined by the Central Bank.

4. Where under paragraph 2(2) of the Order or under paragraph 4 of that Order, an off-shore unit is authorised –

(a) to open, establish, or advise a Letter of Credit, such letter shall be opened, established or advised on behalf of a non-resident or a resident specified in paragraph 4 of the Order;

* and EC/05/2000 of 7th April 2000 and ECD/F/D 1488 of 4th April 2000 [see chapter 15 of Foreign Exchange Manual]

- (b) to issue or renew a guarantee, indemnity or similar undertaking, such guarantee, indemnity or undertaking shall be given on behalf of a non-resident or a resident specified in paragraph 4 of the Order; and
- (c) to receive an acceptance, such acceptance shall be received for a non-resident or a resident specified in paragraph 4 of the Order.

5. An off-shore unit shall, if so required by the Central Bank, furnish to the Central Bank, such statements or returns as may be deemed necessary in respect of any transactions carried on by such off-shore unit under these instructions.

6. In these instructions, the expressions "BOI Enterprise", "designated foreign currency", "off-shore unit", "resident" and "non-resident" shall have the same meaning assigned to them in paragraph 9 of the Order.

- 7. (a) Previous Operating Instructions and Circulars issued in relation to the Foreign Currency Banking Scheme established by the Monetary Board and specified in the Schedule hereto are hereby revoked.
- (b) All other Operating Instructions and Circulars in relation to the Foreign Currency Banking Scheme established by the Monetary Board and not revoked by sub-paragraph (a) shall continue in force and any reference in these instructions and circulars to the Foreign Currency Banking Unit shall be read and construed as if it were a reference to an Off-Shore Unit.
- (c) The revocation effected by sub-paragraph (a) shall not affect -
 - (i) any offence committed or any penalty or liability incurred under those instructions and circulars prior to the revocation; and
 - (ii) any action, proceeding or thing pending or incomplete on the date of revocation, but every such action, proceeding or thing may be carried on and completed as if those instructions and circulars continue to be in force.

M. B. Dissanayake
Chief Accountant

H. A. G. Hettiarachchi
Controller of Exchange

SCHEDULE

- (1) Circular No. 380 (FCBS 1/79) dated 02.05.1979.
- (2) Circular No. 381 (FCBS 2/79) dated 17.05.1979.
- (3) (FCBS 3/79) and Operating Instructions BC 29/79 dated 28.09.1979.
- (4) (FCBS 4/79) dated 29.10.1979.
- (5) (FCBS 5/79) dated 02.11.1979.
- (6) (FCBS 6/79) – BC/F 1049/79 and Operating Instructions BD 40/79 dated 10.01.1980
- (7) (FCBS 7/80) – BC/F 1049/79 and Operating Instructions BD 18/80 dated 30.04.1980.
- (8) (FCBS 8/80) – BC/F 1049/79 and Operating Instructions BD 21/80 dated 14.05.1980.
- (9) (FCBS 9/84) – BC/F 1049/79 and Operating Instructions BD 23/84 dated 13.11.1984.
- (10) (FCBS 10/89) – BC/F 1049/79 and Operating Instructions BD 01/89 dated 31.01.1989.
- (11) Operating Instructions BD/15/93 dated 24.11.1993.

CHAPTER 19
MISCELLANEOUS

1. Sri Lankan passport holders may take out or bring into Sri Lanka, Sri Lanka currency notes up to the value of Rs.5,000.00.
2.
 - (a) Authorised dealers may issue International credit cards, debit cards or other electronic fund transfer cards to a resident of Sri Lanka and effect payments against such cards subject to rules and regulations laid down by the authorised dealers issuing them and shall impose as such a condition that such card shall only be utilised for the payment of personal expenses of the card holder and not for capital transactions or the purchase or import of goods in commercial quantities and shall be surrendered when the cardholder leaves the country for employment abroad or for permanent residence abroad.
 - (b) Where any electronic fund transfers card is issued under subparagraph (a), to a director, representative or employee of a company or any other institution where expenses incurred are debited to the account of the company or institution, the income tax file number to be indicated in the relevant cage of the application form shall be the income tax file number of the company or institution.
 - (c) Where any electronic fund transfer card is issued under subparagraph (a) to a person who is not an income tax payer, such fact should be indicated in the relevant cage of the application form.
 - (d) Notwithstanding subparagraph (a), any electronic fund transfer card may be issued to a holder of a Non Resident Foreign Currency Account, Resident Non-National Foreign Currency Account, Resident Foreign Currency Account or an account in an off-shore unit irrespective of the residential status of such holder provided any expenses incurred thereon are debited only to such accounts. Where funds in such accounts are not adequate to make such debits, debit of expenses shall not be made to any rupee account of the holder without the permission of the Controller of Exchange. The requirement to surrender such card specified in subparagraph (a) shall not apply to the holder of a card issued under this subparagraph provided such holder informs the authorised dealer issuing the card the date of departure from Sri Lanka.
 - (e) Authorised dealers are required to report to the Monitoring Unit of the Exchange Control Department any expenditure, incurred by a cardholder, in excess of United States Dollar 3000 or its equivalent in other foreign currency in any single month, on or before the 15th day of the succeeding month and forward to the Monitoring Unit the original of each application form for the issue of an electronic fund transfer card under subparagraph (a) or (d) on a daily basis.
3. Pensions drawn by a Sri Lankan living abroad, on migration or temporarily, may be remitted on production to an authorised dealer of documentary evidence confirming residence of the Sri Lankan outside Sri Lanka.
4. Authorised dealers may release foreign exchange for payment of subscription fees for membership of professional bodies or institutions outside Sri Lanka and purchase of books, journals, newspapers and other publications on submission of invoices to support the request.
5. Authorised dealers may open temporary current rupee accounts for foreign passport holders which may be credited with rupee proceeds of foreign exchange brought into Sri Lanka on arrival by the passport holder or of other inward remittances received subsequently by the passport holder during the period of stay in Sri Lanka.

6. Funds in a temporary current rupee account of a foreign passport holder may be utilised for local expenses of the account holder during the period of stay in Sri Lanka of the account holder and for outward remittances in any foreign currencies converted at the prevailing rate of exchange or for the issue of foreign currency notes provided the value of such notes does not, except with the approval of the Controller of Exchange, exceed United States Dollars five hundred as per instructions given to authorised dealers.
7. Closure of a temporary current rupee account of a foreign passport holder shall be notified to the Controller of Exchange and any unutilised funds in such an account shall be transferred to a Non-Resident Temporary Current Rupee account in the name of the account holder further credits to which (other than on inward remittances) and further debits (other than for local disbursements) would require the approval of the Controller of Exchange.
8. (1) The Controller of Exchange has permitted –
 - (a) buying in Sri Lanka of gold by any person;
 - (b) selling in Sri Lanka of gold by any person resident in Sri Lanka as determined in accordance with the Exchange Control Act;
 - (c) importing into Sri Lanka or exporting from Sri Lanka of gold by any person provided that the person makes before clearance of gold from Sri Lanka Customs or at or before the time of export of gold from Sri Lanka, as the case may be, a declaration to the Director General of Customs of the quantity and value of the gold and the purpose of the import or export and comply with the Import and Export Control Act and Regulations made thereunder.

(2) Gold may be imported into Sri Lanka on consignment account basis by –

 - (a) a licensed commercial bank; or
 - (b) a limited liability company approved by the Controller of Exchange –
 - (i) which is primarily engaged in trading of gold or manufacturing gold jewellery or other gold products for exports;
 - (ii) which has a paid up capital of not less than Rs. 10 million;
 - (iii) which has a good financial track record for not less than three years; and
 - (iv) which has experience in gold trading for not less than three years

subject to such conditions as may be imposed by the Controller of Exchange from time to time.
9. Authorised Dealers may enter into contracts to sell foreign currency forward upto 360 days with an importer in respect of his import payments even if such importer has established documentary credits for the import through another Authorised Dealer or is to use another Authorised Dealer to collect import bills on DA (Documents against Acceptance) or DP (Documents against Payment) terms, provided documentary evidence is furnished to the selling bank by the importer in proof of his commitment to make payment in such foreign currency on the basis of valid trade transactions.
10. A person resident in Sri Lanka may retain in his possession foreign currency in the form of travellers cheques and currency notes purchased by him from an authorized dealer for his travel abroad but unutilized for such travel, upto a limit of US \$ 2,000 or its equivalent in any convertible foreign currency, for the purpose of utilizing in his future travel, provided that currency notes so retained do not exceed US \$ 500 or its equivalent.
11. Authorised dealers may grant loans in foreign currency to Sri Lankans employed abroad, who are in a position to service such loans in foreign currency, for construction or purchase of residential houses in Sri Lanka, subject to the following conditions –

- (i) An assessment of the credit risk of the loan in foreign currency should be made before it is granted, particularly on the borrower's ability to repay the loan in foreign currency having regard to his employment abroad and/or existing balances in his foreign currency account.
- (ii) The foreign currency proceeds of the loan will be released in Sri Lanka Rupees to the borrower by the bank, which grants the loan, purchasing the foreign exchange.
- (iii) The loans should be disbursed in accordance with procedures usually followed by banks when releasing loans for the purpose of purchasing or constructing houses. In the case of a loan for construction, it should be released on installment basis, depending upon the progress of construction, as is usually done by banks.
- (iv) Any foreign exchange risk likely to arise in the event of a default of repayment of the loan in foreign currency should be hedged by building up of a prudential reserve in foreign currency in the bank.
- (v) Adequate security should be obtained either in the form of a mortgage of a property or in the form of a lien on foreign currency deposits *etc.* to cover the credit risk.
- (vi) Authorised dealers are requested to report the details of such loans granted on a quarterly basis including the amount of prudential reserves built up for the hedging the currency risk, within 15 days of the end of each quarter.

12. The Controller of Exchange has permitted

- (a) the payment in Sri Lanka Rupees, of the purchase price payable in respect of any residential property in Sri Lanka, to a person who is the owner of the property being sold but who is resident outside Sri Lanka or to the heir of such person resident outside Sri Lanka: Provided that such property had originally been acquired or developed by the owner resident outside Sri Lanka and payment for the same was made by way of inward remittances in convertible foreign currency; and
- (b) the repatriation of such amount of the purchase price paid in Sri Lanka Rupees in such circumstances as is described in (a) above, as is equal to the amount paid by way of inward remittances in convertible foreign currency for the original acquisition or development of the property. Any amount remaining after such repatriation shall be deposited in a non-resident blocked rupee account in Sri Lanka in the name of the owner or the heir to such property.

13. Authorised Dealers may enter into forward contracts upto 720 days for the purchase of foreign exchange in respect of repayment of foreign loans, subject to the production of evidence to the selling bank establishing such commitments.

14. (1) Authorised Dealers may issue or renew guarantees or similar undertaking of the nature set out below in respect of obligations undertaken by a person resident in Sri Lanka (whether a bank/trading organization or an individual) the discharge of which would involve a payment in foreign exchange remittable to a person resident outside Sri Lanka.
- (a) Bid Bonds in favour of persons resident outside Sri Lanka without a limit in respect of exports and other service contracts, subject to conditions stipulated in the tender or quotation.
 - (b) Performance Bonds in favour of persons resident outside Sri Lanka without a limit in respect of exports and other service contracts, subject to proof of the award of the contract and conditions stipulated in the contract.
 - (c) Letter of Guarantees for purposes other than those referred to in items (a) and (b) above upto a value of US \$ 500,000 subject to the following conditions:

- (i) Furnishing of evidence in proof of the underlying transaction, which should be a transaction permitted or authorised by the Controller of Exchange.
 - (ii) The Guarantee containing a clause to the effect that claims under the Guarantee would be limited to the amount outstanding to the beneficiary of the Guarantee.
 - (iii) Any claim under the Guarantee should be received in Sri Lanka on or before the expiry date of the Guarantee.
 - (2) In the cases where the principle obligor is a person resident outside Sri Lanka and the Guarantee is to be given by his agent in Sri Lanka, Letters of Guarantee upto the value of US \$ 500,000 may be issued at the request of the agent subject to obtaining a counter guarantee or counter indemnity on identical terms from the principal resident outside Sri Lanka in addition to conditions (i), (ii) and (iii) of (c) above.
 - (3) Authorised Dealers may make outward remittances arising from valid claims in respect of the Guarantees referred to above.
15. Authorised Dealers may grant loans and advances in foreign currency to Sri Lankans employed abroad to be utilised for any purpose in Sri Lanka against the pledge of their NRFC balances provided they are in a position to service such loans in foreign currency. These loans should be granted subject to the following terms and conditions:
- (1) The loan should be granted only upto 90% of the funds available in the NRFC account of a Sri Lankan employed abroad on pledging his NRFC accounts as a collateral for the loan.
 - (2) The foreign currency proceeds of the loan will be released in Sri Lanka Rupees to the borrower by the bank, which grants the loan, purchasing the foreign exchange.
 - (3) The tenure of the loan should be decided based on the borrower's probable tenure of employment abroad and should not exceed 5 years.
 - (4) The loans should be repaid in foreign currency and in the event of the loan being in arrears for over 3 instalments, the bank should recover the loan from the balance in the borrower's NRFC account.
 - (5) Under no circumstances, should the borrower be permitted to settle any outstanding balance of the loan in rupees.

REFERENCES

EC/36/93D of 10th March, 1993 – Sri Lankan currency

EC/41/93D of 29th March, 1993 – Pensions

EC/06/94 of 18th March, 1994 and EC/D/G6/1994/2 of 18th March 1994 and EC/09/99(D) of 17th December, 1999 and EC/02/2000(D) of 3rd February 2000 – International Credit Cards and Subscription fees

EC/17/84(G) of 10th April, 1984 – Temporary Current Rupee Accounts

Government *Gazette* (Extraordinary) No.1227/11 of 16th March, 2002 – Import and Export of Sri Lanka Currency

Government *Gazette* (Extraordinary) No.1263/10 of 22nd November, 2002 – Permitted dealings in gold

Letters jointly issued by the Controller of Exchange and Director of Bank Supervision dated 29th January 2001, 14th February 2001, 19th March 2001 and 16th July 2001 – Forward Sale and purchase of foreign exchange.

06/02/12/2002 of 4th September, 2002 – Housing Loans in Foreign Currency to Sri Lankans Employed Abroad.

Government *Gazette* (Extraordinary) No.1312/9 of 28th October, 2003 – Notification under Section 7.

06/04/11/2003 of 9th December, 2003 – Repatriation of Sale Proceeds of Properties purchased and/or developed through Inward Remittances of Foreign Currency brought into the country.

06/04/04/2003 of 21st January, 2003 – Forward Sales and Purchases of Foreign Exchange.

06/04/05/2003 of 21st January, 2003 – Guarantees.

06/04/12/2003 of 10th December, 2003 – Loans and Advances in Foreign Currency to Sri Lankans Employed Abroad against the pledge of Balances in Non-Resident Foreign Currency (NRFC) Accounts.

CHAPTER 20

SRI LANKA DEVELOPMENT BONDS

1. A Sri Lanka Development Bond (hereinafter referred to as a 'SLDB') is a debt instrument denominated in United States Dollars and issued by the Government of Sri Lanka in terms of the Foreign Loans Act.
2. The following categories of persons are eligible to purchase SLDBs –
 - (a) authorised dealers;
 - (b) primary dealers appointed under the Registered Stock and Securities Ordinance and the Local Treasury Bills Ordinance;
 - (c) citizens of foreign States whether resident in or outside Sri Lanka;
 - (d) citizens of Sri Lanka who have made their permanent abode outside Sri Lanka or proceeded outside Sri Lanka to take up employment, or set up in business or in a profession;
 - (e) bodies corporate or unincorporate established under the laws of a country other than Sri Lanka.
 - (f) companies who have entered into agreement in terms of Section 17 of the Board of Investment of Sri Lanka Law No.4 of 1978 with full exemption from the provisions of the Exchange Control Act provided that all purchases of Sri Lanka Development Bonds are made against debits to foreign currency accounts maintained only for the purposes of crediting earnings from exports of such companies.
3. The Superintendent of Public Debt of the Central Bank has appointed certain authorised dealers and primary dealers as designated agents for the purpose of purchasing and marketing of SLDBs through whom applications for purchase of SLDBs by persons specified in paragraph 2(c), (d), (e) and (f) shall be submitted.
4. For the purpose of purchasing and marketing of SLDBs, a designated agent is permitted to open and maintain with an authorised dealer –
 - (a) a United States Dollar interest bearing account titled Sri Lanka Development Bond Investment Account (SLDBIA) for crediting funds payable to the Government of Sri Lanka for the purchase of SLDBs by investors and received from such investors in United States Dollars;
 - (b) a United States Dollar interest bearing account titled Dollar Account for Bond Investment (DABI) for purchase by the designated agent of SLDBs from the Government of Sri Lanka and for dealings in SLDBs with investors. Where the designated agent is an authorised dealer it will not be mandatory for such designated agent to maintain such an account.
5. A SLDBIA shall only be credited with funds received in United States Dollars from investors for the purchase of SLDBs from the Government and only be debited with –
 - (a) payments made to the Government for purchase by those investors of SLDBs and payable, in accordance with instructions given by the Superintendent of Public Debt, to the Public Debt Subscription United States Dollar Account maintained by the Superintendent with the Central Bank;
 - (b) refund of funds to investors on the instructions of the Superintendent of Public Debt;
 - (c) remittance of funds for any other purpose on the instructions of the Superintendent of Public Debt.

6. A DABI shall only be credited with –
- (a) United States Dollars procured by or assigned to the account holder for the purchase by the account holder of SLDBs;
 - (b) proceeds of sale to investors of SLDBs held and owned by the account holder;
 - (c) principal and interest received by the account holder for SLDBs held and owned by such account holder;
- and only be debited with –
- (i) payments made to the Government for purchase of SLDBs by the account holder;
 - (ii) payments made for the purchase by the account holder of SLDBs in the secondary market;
 - (iii) payments made to the Superintendent of Public Debt as fees for subdivision and consolidation of SLDBs and for any other purposes;
 - (iv) funds sold to an authorised dealer, being funds held in the account in excess of the requirements of the account holder for the purchase of SLDBs.
7. A designated agent who is a primary dealer is permitted to purchase United States Dollars from an authorised dealer subject to the condition that such purchases are limited to the extent necessary to purchase SLDBs from the Government or from another holder of SLDBs. Any such funds purchased which are in excess of the requirements of the account holder shall be sold to an authorised dealer forthwith.
8. Authorised dealers are required to furnish statements of SLDBIA and DABI for each month to the Exchange Control Department (D Branch) on or before the 15th day of the succeeding month.

REFERENCES

06/04/11/2001 dated 30th October, 2001.
06/04/03/2004 dated 16th July, 2004