

Based on Article 14, paragraph 1, item 9 and Article 34, item 9 of the Law on the National Bank of Serbia (RS Official Gazette, Nos 72/2003, 55/2004 and 44/2010), and Article 27, paragraph 2 of the Law on Foreign Exchange Operations (RS Official Gazette, Nos 62/2006 and 31/2011), the Executive Board of the National Bank of Serbia hereby issues the following

DECISION ON TERMS AND CONDITIONS UNDER WHICH RESIDENTS MAY HOLD FOREIGN EXCHANGE IN BANK ACCOUNTS ABROAD

1. This Decision sets out the terms and conditions under which residents may hold foreign exchange in bank accounts abroad.

2. Residents who may hold foreign exchange in bank accounts abroad shall be as follows:

1) diplomatic, consular and other representative offices of the Republic of Serbia abroad financed from the budget of the Republic of Serbia, up to the amount needed to finance the operations of such representative offices, as specified in the decision of the ministry in charge of foreign affairs or another competent authority;

2) domestic nationals employed in representative offices referred to in indent 1) hereof, up to the amount of the sum total of salaries earned as of their appointment in such representative offices;

3) persons appointed to work in state missions abroad pursuant to decisions of the competent authority, and representatives of the state authority who shall reside abroad pursuant to a decision of the Government of the Republic of Serbia, up to the amounts specified in these decisions;

4) persons on professional training abroad based on a decision issued by the competent body, up to the amount of costs specified in such decision, and persons eligible to receive family allowance up to the amount specified in the regulation on personal and physical transfers of means of payment from and to the country;

5) persons emigrating from the Republic of Serbia, against proof of emigration, up to the amount transferred or taken out of the Republic of Serbia within the meaning of the regulation referred to in indent 4)

hereof;

6) foreign nationals who, pursuant to a residence permit or work visa, have resided in the Republic of Serbia for over one year;

7) owners of real estate abroad for the purpose of selling such real estate, up to the amount of the real estate value specified in the sale contract;

8) persons holding dual nationality – that of the Republic of Serbia and of another country but domiciled in the Republic of Serbia, nationals of the Republic of Serbia domiciled in the Republic of Serbia and permitted to stay abroad up to one year based on a work visa, special category of visa, residence permit or some other document to that effect, as well as persons entitled to foreign pensions in the countries with which no international treaties have been concluded – for the purposes of pension payments;

9) payment institutions and electronic money institutions, which, as payment service providers within the meaning of the law on payment services, perform payment transactions within the Single Euro Payments Area (SEPA), in accordance with the decision governing special requirements for credit transfers and direct debits in euro – solely for the purposes of executing those payment transactions.

After cessation of grounds for a resident to hold foreign exchange in a bank account abroad within the meaning of paragraph 1 hereof, a resident shall be required to repatriate the remaining funds and to close the account within the following 30 days.

3. A resident may hold foreign exchange in a bank account abroad subject to approval of the National Bank of Serbia, in the following cases:

1) to finance construction works abroad, based on a contract with an investor or foreign creditor and estimate of planned monthly costs, up to the amount of:

- advance payment received from the foreign investor,
- foreign credit received for financing construction works, if a foreign creditor makes credit approval conditional upon holding credit funds in an account with a foreign bank,
- planned average monthly costs of the performance of construction works, provisioning for and maintenance of the construction site abroad;

2) to pay in the profits earned in local currency from the performance of construction works abroad, up to the countervalue in a currency tradable in the foreign exchange market of the Republic of Serbia, for the purpose of repatriation of profits following the completion of construction works;

3) to finance exploration works abroad – based on a concession agreement on such works;

3a) to settle tax and other liabilities under public law to a foreign state – concessor in respect of concession revenue, if the regulations of the foreign state stipulate that these liabilities are to be settled exclusively through a bank account in that state – based on the excerpt from regulation of that state and the decision of the competent authority;

3b) to make collections in respect of tax refund in a foreign state, if a regulation of that state stipulates that the refund be effected exclusively via the account with a bank in that state – based on an excerpt from regulations of that state and the document proving the entitlement to tax refund;

4) to cover current operating costs of representative offices or branches of legal entities abroad, other than representative offices referred to in Section 2 hereof, and to pay for services in international freight and passenger transport – up to the amount of planned monthly costs – based on the specification of such costs and documents issued by the competent foreign authority on the registration of a representative office or branch of a legal entity abroad;

5) to make a guarantee deposit for the purpose of participating in a bidding or tender procedure, and/or for the purpose of placing bids for the acquisition of shares if the foreign co-contractor so requests or the regulations of the given country so prescribe – based on a copy of agreement, excerpt from the bidding procedure or tender documentation, or excerpt from the regulations of the said country;

5a) to make a guarantee deposit under a guarantee issued by a foreign bank to a resident who performs construction works abroad, the deposit being up to the amount specified in the bank's request for guarantee deposit, and/or guarantee agreement – based on a copy of such request, and/or agreement, and a copy of agreement on the performance of construction works abroad;

5b) to settle liabilities abroad in relation to energy trade, provided the

resident may engage in energy trading in accordance with the law governing energy, as well as in relation to the resident's balance responsibility as a participant in the energy transport system – based on an excerpt from the regulation of the relevant country envisaging that these liabilities can be settled only through the account with a bank in that country and the document proving this liability;

6) to use a foreign financial credit for making payments abroad, if the disbursement of such credit is conditional upon holding funds with a foreign bank – based on a copy of the credit agreement and registration of credit borrowing with the National Bank of Serbia;

7) to purchase securities abroad in conformity with the Law on Foreign Exchange Operations – based on a copy of the agreement entered into with an authorized participant in an organized market of securities abroad and an excerpt from the regulations of the given country pursuant to which it is necessary to hold foreign exchange in an account with a bank abroad for the payment of such securities abroad;

7a) to make collections in respect of the sale of securities abroad and revenue from securities purchased abroad in accordance with the Law on Foreign Exchange Operations, and to make collections based on the refund of funds invested in a company established abroad (the sale of a company, wind-down of a company, profit from investment in a company etc.) – based on an excerpt from the regulation of the relevant country stipulating that holding foreign exchange in an account with a bank in that country is a precondition for the collection;

8) to deposit and to invest funds of insurance companies abroad, subject to approval of the National Bank of Serbia issued pursuant to the law on insurance;

9) to collect grants and cash donations from abroad for scientific, cultural and humanitarian purposes – based on a grant agreement or other documentation specifying that holding foreign exchange in a bank account abroad is a precondition to receiving such grants or donations, up to the amount specified in such agreement or documentation;

10) to collect compensation under the court's ruling abroad, if such ruling sets out that collection is to be effected via a foreign bank account, against presentation of a court ruling;

11) to cover costs of medical treatment abroad, as well as the costs of residing abroad for the purposes of such treatment – based on

appropriate documentation issued by the competent medical institution in the Republic of Serbia or abroad and based on other evidence submitted.

The account referred to in paragraph 1 hereof shall also be the account that the branch of the resident legal person abroad, as a separate organisational part of that legal person, opens with a bank abroad.

4. The resident referred to in Section 3 hereof shall submit to the National Bank of Serbia a written application for permission to hold foreign exchange in a bank account abroad, which shall contain, in particular: name of the applicant, address of the applicant's head office, telephone number, business activity, registration number, grounds for holding foreign exchange abroad, amount and the time period for which such permission is requested, and name of the country and foreign bank in such country with which this account will be opened. Along with the application, the resident shall enclose the documentation prescribed herein, but the National Bank of Serbia may also request other documentation it deems necessary.

The National Bank of Serbia shall reject the application referred to in paragraph 1 hereof if the terms prescribed herein have not been met.

5. When the resident meets the terms prescribed herein, the National Bank of Serbia shall issue a decision to permit such resident to hold foreign exchange in a bank account abroad.

The decision referred to in paragraph 1 hereof shall be issued for a period of up to one year, though it may be issued for a longer period – for the duration of the obligation stipulated by the agreements referred to in this Decision.

The decision referred to in paragraph 2 hereof shall be issued for a longer period of time in case of construction works abroad, i.e. the period shall be extended until:

- the resident's full collection of claims arising from construction works, up to the amount of uncollected claims – based on a document indicating the deadline for full collection;
- the resident's settlement of tax obligations towards the country where the construction works are performed – based on an excerpt from the regulation of that country proving such obligation.

The decision referred to in paragraph 1 hereof shall be deemed final.

6. A resident from Section 3 hereof shall provide the National Bank of Serbia with the number of foreign currency account opened with a bank abroad based on permission granted by the National Bank of Serbia – within 30 days from the day of opening such account.

A resident who was permitted by the National Bank of Serbia to hold foreign exchange in a bank account abroad shall report to the National Bank of Serbia on the balance of funds in that account, in conformity with the regulation on mandatory reporting to the National Bank of Serbia on foreign transactions.

A resident who was permitted by the National Bank of Serbia to hold foreign exchange in a bank account abroad for collections referred to in Section 3, paragraph 1, subparagraphs 3b), 7a) and 10), shall transfer foreign exchange, upon each collection, to its account with a bank in the Republic of Serbia – within 30 days from the day of collection, and shall inform the National Bank of Serbia thereof.

Notwithstanding paragraph 3 hereof, a resident may hold foreign exchange in a bank account abroad even after the expiry of the deadline from that paragraph, if it has been granted the decision of the National Bank of Serbia permitting him to hold foreign exchange in a bank account abroad on other grounds prescribed by Section 3 hereof, up to the amount of foreign exchange and deadline approved under the decision, of which he shall inform the National Bank of Serbia.

7. Decisions permitting the holding of foreign exchange in a bank account abroad issued by the National Bank of Serbia prior to entry into force hereof shall remain in force until the expiration of deadlines specified in such decisions.

8. As of the day of entry into force hereof, the Decision Specifying Terms and Conditions under which Residents May Hold Foreign Exchange in Bank Accounts Abroad (RS Official Gazette, Nos 16/2007, 36/2007, 118/2007, 44/2009, 64/2009 and 21/2010) shall cease to be valid.

9. This Decision enters into force on the eighth day following its publication in the RS Official Gazette.

NBS Executive Board No 6

Chairman at the meeting

12 April 2012
Belgrade

of the NBS Executive Board
Governor
Dejan Šoškić