

The Foreign Exchange Management Law
(The Pyidaungsu Hluttaw Law No. 12/ 2012)
The 8th Waning of Second Waso 1374 M.E
(10th August, 2012)

In order to improve foreign exchange management and broaden the external economic relations and cooperation that will materialize to the national socio-economic development of the Union, the Pyidaungsu Hluttaw hereby enacts this Law:

Chapter(I)

Title and Definition

- 1.** This Law shall be called **the Foreign Exchange Management Law**.
- 2.** The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) Union means the Republic of the Union of Myanmar ;
 - (b) Foreign Currency includes foreign currency in cash such as coins, currency notes, postal orders, cheques, money orders, traveller's cheques, letters of credit, bill of exchange and promissory notes;
 - (c) The expression foreign exchange includes the following:
 - (i) foreign currency in cash;
 - (ii) instruments which are to be paid by foreign currency in cash or to be paid in abroad;
 - (iii) deposits in intergovernmental financial institutions, central banks, treasuries and commercial banks abroad;
 - (iv) accounts open with foreign currency in domestic banks;
 - (v) foreign currency denominated securities and instruments issued or guaranteed by foreign governments, foreign financial institutions and intergovernmental financial institutions;

(d) Person includes corporation, legally corporate or not, legally established body, organization, cooperative, partnership and any other organization, union, association, or a group of people³ and a person;

(e) Internal resident includes the following:

(1) individuals who have resided or have had their main establishments in the Union for a period of at least one hundred eighty-three (183) days during the preceding twelve-month period, with the exception of diplomatic servant from foreign countries and foreign civil servants who carry out similar assignments;

(2) companies, organizations and offices formed legally under any domestic law and companies, organizations, offices and branches formed legally in the Union under any foreign law;

(3) diplomatic servants or other servants appointed by the Union in foreign countries.

(f) **External resident** means persons who are not involved as defined in paragraph (e);

(g) **Central Bank** means the Central Bank of Myanmar;

(h) **Authorized person to deal in foreign exchange licence** means the person holding any licence issued by the Central Bank to deal in foreign exchange any business such as accepting, exchanging, Purchasing, selling, transferring, paying in local or abroad in respect of foreign exchange. It includes authorized person to change foreign currencies licence, authorized person to deal in foreign currencies licence and licence holders from time to time prescribed by the Central Bank;

(i) **Authorized person to change foreign currencies licence** means a person who accepts and deals in only foreign currency in cash and traveller's cheques in dealing foreign exchange.

(j) **Authorized person to deal in foreign exchanges licence** means a bank that authorized to deal in foreign banking including dealing in foreign exchange;

(k) The expression securities includes the following:

(i) treasury bills, treasury bonds and debentures issued or undertaken to issue by the Union Government or any Government department or organization;

- (ii) treasury bill, treasury bonds, bonds and debentures issued by international organizations or foreign governments;
- (iii) shares, stocks, bonds and debentures issued by the public companies;
- (iv) rights and authorized to draw money in respect of shares, stocks, bonds and debentures;
- (l) **Transfer and payments of current account** means payments which are not for transfers and payment of capital account and it includes the following:
 - (1) transfers and payments of current account including trade and services, and payment for short –term bank loans;
 - (2) interests that paid on loans and net income from investments;
 - (3) repayments for instalment for loans or depreciation for direct investments;
 - (4) remittances from internal or external for family living expenses;
- (m) **Transfers and payments of capital account** means payments which are for transferring capital except payments for current account as defined in sub-section(l).

Chapter II

Powers and Duties of the Central Bank

The Central Bank shall:

- (a) lay down policies in accord with provisions of this Law in respect of foreign exchange management;
- (b) declare and publish daily the reference exchange rate as determined based on the market exchange rate.
- (a) The Union Government may determine an emergency period not more than 3 months with respect to foreign exchange business. Moreover, if necessary, such period may be determined once for not more than three months additionally.
- (b) If a determination of an emergency period under sub-section (a). the Central Bank may determine temporary restrictions on the business of the authorized person to deal in foreign exchange licence to solve the emergency.

5. The Central Bank shall facilitate to carry out currency market business systematically and smoothly among banks. In addition, it may participate to deal in foreign exchange.

Chapter III

Foreign Exchange Business

6. Foreign exchange business subject to this Law are as follows:

- (a) payments in foreign currency within the Union;
- (b) other payments in foreign exchange within the Union;
- (c) international payments and transfers in foreign exchange;
- (d) purchases and sales of foreign currency and other foreign exchange within the Union.

7. By handing transfers of foreign exchange in cash, payment instruments and securities between the Union and foreign countries may be carried out in accord with the stipulations.

8. Payments and transfers of foreign currency other than by handing transfers contained in section 7 shall be conducted through the authorized person to deal in foreign exchange licence.

9. Purchases and sales of foreign exchange within the Union shall only be carried out by the authorized person to deal in foreign exchange licence. Purchases and sales of the authorized person to change foreign currency licence shall only entitle to deal in foreign currency in cash and traveller's cheques.

Chapter IV

Holding of Foreign Currency, Opening and Using of Foreign Currency Account

10. The internal residents entitle to hold any amount of Foreign Currency within a period in accord with the stipulations. Under such stipulations, foreign currencies in their possession to the authorized person to deal in foreign exchange licence at the rate of market price may be exchanged and deposited.

- 11.** Any person who legally holds foreign currency may, all or part of foreign currencies in their possession, be opened bank account and deposit to only the authorized person to deal in foreign exchange licence with the Union.
- 12.** The internal resident having income in external shall repatriate to internal by foreign exchange in accord with the stipulations. Such incomes shall be opened and deposit bank account to the authorized person to deal in foreign exchange licence.
- 13.** The internal resident or external resident may open and deposit bank account in kyat earned from selling their foreign exchange to the authorized person to deal in foreign exchange licence within the Union. Such balance of kyat account may be used to repurchase foreign exchange.
- 14.** The internal residents may, foreign currency account has been opened in foreign country, Use for the following purposes:
 - (a) transportation, insurance, tourism, labour exportation and contracting construction project in abroad by land, by sea and by air;
 - (b) debt settlement for external loans;
 - (c) establishment of a branch or a representative office in abroad and carrying out foreign exchange business in abroad under the approval of the relevant authorities;
 - (d) carrying out other business approved by the relevant Government department, organization or the Central Bank.
- 15.** The internal residents who open bank accounts in abroad under the provision of section 14 have the duty to report the use of such foreign currency account to the Central Bank in accord with the stipulations.
- 16.** The internal economic organizations which opened bank accounts by foreign currency shall submit the information in respect of the utilization of such accounts requested by the Central Bank.

Chapter V

International Payments and Transfer in kyat

17. International payments and transfers in kyat, including by handing transfers in cash, payment and other payment between the Union and foreign countries may only be made in accord with the stipulations.

Chapter VI

Authorized Person to Deal in Foreign Exchange Licence

18. The authorized person to deal in foreign exchange licence shall:

- (a) deal in only the stipulated business in its licence shall;
- (b) comply with this Law, the Control of Money Laundering Law and order existing laws related to foreign exchanges.

19. The authorized person to deal in foreign exchange licence may lend foreign exchange to internal residents in accord with the stipulations.

20. The authorized person to deal in foreign exchange licence may, receiving cash-deposit by foreign exchange from the public, collect money by issuing bonds and short-term certificates of deposit in foreign exchange in accord with the stipulations.

21. The authorized person to deal in foreign exchange licence may participate in money market among banks. In addition, the foreign exchange may be dealt in the public in accord with the stipulations.

22. The authorized person to deal in foreign exchange licence shall comply with provisions of this Law and rules, regulations, bye-laws, notifications, orders, directives and procedures and instructions of the licence issued by this Law.

Chapter VII

Bringing Foreign Exchange and Jewellery to Internal or External

23. The internal residents and external residents may carry out foreign exchange and jewellery for personal use bringing into the Union and taking out from the Union in accord with the stipulations.

Chapter VIII

Transfers and Payments of Current Accounts

24. No restriction shall be made directly or indirectly on payments and transfers from international to internal for transfers and payments of current accounts.

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Chapter IX

Transfers and payments of Capital Accounts

26. The Central Bank shall scrutinize and consider whether or not funds prescribed as foreign investment have been brought in internal actually to allow the repatriation of principal, interests, allocation of profits, and other receipts related to the foreign investment to external.

27. Whenever the foreign investors have brought the funds, they shall be submitted to the Central Bank by the evidences in accord with the stipulations. If such evidence cannot be submitted, the Central Bank may refuse to allow the repatriation of such funds to abroad.

28. When the investment period has expired or the investment activities are partially or completely closed, the foreign investor may repatriate his investment funds to his own country or to a third country in accord with the existing laws.

29. When the investment period has expired or the investment activities are partially or completely closed, the foreign investor may repatriate his investment funds to his own country or to a third country in accord with the existing laws.

30. The Central Bank may, by issuing regulations, stipulate limitations on transfers and payments of capital accounts. Such limitations shall not apply the following:

(a) repayment of principal for loans as approved by the Union Government;

(b) aid to a foreign country as approved by the Union Government;

(c) investment in a foreign country as approved by the Union Government.

Chapter X

Administrative Power of the Central Bank

32. The Central Bank shall, in exercising the provisions of this Law, also carry out the following functions:

- (a) after vetting in respect of application for authorizing to deal in any foreign exchange activity, issuing licence or refusing of issuing license, or revoking of the licence on violator;
- (b) supervising and controlling the authorized person to deal in foreign exchange licence;
- (c) laying down the restricted regulations of the amount of foreign exchange may be kept in the hand of persons authorized to deal in foreign exchange;
- (d) determining each or all currencies in making restrictions the amount of net foreign exchange or persons dealing in foreign exchange, in addition, restrictions of the amount of the external loan of such persons as well as other requirements.

33. In implementing this Law, the Central Bank shall have the right to call for necessary information from the authorized person to deal in foreign exchange licence. The staff of the Central Bank and other outside qualified persons designated by the Central Bank may examine accounts, books, documents, and other records as deemed necessary by the Central Bank of any authorized person to deal in foreign exchange licence.

34. The Central Bank may revoke the issuing of a foreign exchange licence when occurring the following circumstances:

- (a) when the applicant submits to obtain the licence, occurring false information submitted regarding the experience or integrity of his proposed officers, directors, and main shareholders, or false documents submitted in connection with the licence application;
- (b) submitting and requesting to revoke the licence by the licence holder;
- (c) fails to comply with the duties of the rules, regulations, bye –laws, notifications, orders, directives and procedures issued by this Law;

- (d) fails to comply with any provisions of section 22 or violates any prohibitions contained in section 39 and 40;
- (e) punishment for any money laundering, tax fraud, and financial offence;
- (f) finding the credible evidences that the authorized person to deal in foreign exchange licence fails to fulfil the demands of his customers or his obligations in the ordinary business, and it will be likely abolished as incurring losses in business.

35. The Central Bank may, if the authorized person to deal in foreign exchange licence violates any of the provisions of chapter VI of this Law, be liable to any of the following administrative penalties:

- (a) warning
- (b) passing orders including the restrictions of the foreign exchange activities;
- (c) fine;
- (d) suspension or termination permanently the responsible person or relevant personnel from duties;
- (e) revocation of licence.

36. The person who does not satisfy in relation to any decisions passed by the Central Bank under section 35 may apply to the Supreme Court of the Union in accord with the stipulations.

37. The administrative penalties taken action against this law shall not preclude on taking action against criminal or civil suit.

Chapter XI

Prohibitions

38. Any person shall not deal foreign exchange business without having any authorized to deal in foreign exchange licence.

39. Any person who authorized person to deal in foreign exchange licence shall not deal in foreign exchange business not permitted in the licence issued by the Central Bank.

40. The authorized persons to deal in foreign exchange licence under section 20 of his this Law shall:

(a) not fail to provide the information requested by the Central Bank;

(b) not interfere prohibit and disturb in examining of their accounts, books, documents, and other records.

41. Any person who authorized person to deal in foreign exchange licence shall not violate any prohibition of rules, regulations, bye-laws, notifications, orders, directives and procedures issued by this Law.

Chapter XII

Offences and Penalties

42. Any person violates the prohibition of section 38 shall, on conviction, be published with imprisonment for a term not more than 3 years or with fine or with both and the exhibits shall also be ordered to confiscation.

43. Any person who authorized person to deal in foreign exchange violates the prohibition of section 39 shall, on conviction, be punished with imprisonment for a term not more than 3 years or with fine or with both and the exhibits shall also be ordered to confiscation.

44. Any person who authorized person to deal in foreign exchange licence violates any prohibition of section 40 or 41 shall, on conviction , be punished with imprisonment for a term not more than one year or with fine or with both.

Chapter XIII

Miscellaneous

45. In taking legal action against the offences contained in this Law, the prior sanction of the Central Bank shall be obtained.

46. Offences contained in this Law are prescribed as cognizable offences.

47. Rules, regulations, bye-laws, orders, directives and procedures made or issued under the repealed Foreign Exchange Regulation Act, 1974 may apply in so for as they are not inconsistent with the provisions of this Law.

48. In implementing the provisions of this Law, criminal action or civil action shall be taken against a person who carry out the assigned duties in good faith.

49. In implementing the provisions of this Law:

(a) the Central Bank may, with the approval of Union Government, issues rules regulations and bye –laws as may be necessary;

(b) the Central Bank may issue notifications, orders, directives and procedures as may be necessary.

50. The Foreign Exchange Regulation Act, 1974 (BURMA ACT No. XLIV 1974) is here by repealed by this law.

I hereby sign it under the Constitution of the Republic of the Union of Myanmar.

(Sd.) Thein Sein

President

The Republic of the Union of Myanmar