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ACT

Amending the Foreign Exchange Act, no. 87/1992, with subsequent amendments (capital account liberalisation)

Article 1

The following amendments shall be made to Article 13(b) of the Act:

a. Paragraph 2 shall read as follows:

All cross-border movement of foreign-denominated capital according to Paragraph 1 is prohibited apart from movement of capital that is demonstrably due to:

1. Trade in goods and services.
2. Wages that a non-resident or a resident living abroad, such as for purposes of work or study, has acquired in Iceland in the past six months. Wage-related expenses, student loans, unemployment benefits, pension benefits (including old-age pensions, disability pensions, and social assistance benefits), and other comparable payments are considered wages in the sense of this Item.
3. Gifts and grants to non-residents, such as individuals, charitable institutions, or other comparable parties, up to a maximum of 6,000,000 kr. per calendar year. Movement of capital for gifts and grants shall be deposited to an account owned by the recipient, and the donor or grantor shall be the beneficial owner of the funds in question.
4. Interest, indexation, contractual instalments, and dividends according to Article 13(j).
5. Rental income from real estate acquired by a non-resident in Iceland.
6. Prepayment and retirement of loans and investments in securities, mutual fund and investment fund units, money market instruments, other negotiable financial instruments, monetary claims and other comparable claims in foreign currency, importation and exportation of securities, or deposits to and withdrawals from accounts with financial undertakings, including withdrawals of cash, up to a combined maximum value equivalent to 100,000,000 kr. per party. Movement of

capital or cash withdrawals on the basis of this provision are subject to the following conditions:

- a. The party exercising the authorisation must be the beneficial owner of the funds.
 - b. An individual who exercises the authorisation must have reached the age of 18 years.
 - c. The asset position of a legal entity that exercises the authorisation must, as of 1 August 2016, be at least equal to the amount of the proposed movement of capital or cash withdrawal. The term asset position refers to total assets without deducting liabilities.
 - d. A financial undertaking that carries out movement of capital or processes a cash withdrawal must send the Central Bank of Iceland a notification specifying the purpose of the transaction within five business days. Notifications of prepayment and retirement of loans must be received by the Central Bank before the payments are executed, however.
7. Direct investment by residents. Movement of capital on the basis of this Item is subject to the requirement that the investor be the beneficial owner of the funds, that the investment entail a purchase of at least 10% of equity, and that the Central Bank have confirmed that the investment is classified as direct investment.
8. Importation of foreign currency to a deposit account with a domestic financial undertaking, but not when the payer is a resident and the recipient a non-resident.
9. Individuals' living expenses abroad.
10. Payment of taxes and public levies, legal fees pursuant to court order, accident benefits and compensatory damages payable to a non-resident, and inheritance payments owed to a non-resident individual in accordance with an inheritance report confirmed by a Commissioner.
11. Purchase by an individual of one real property abroad per calendar year, subject to prior confirmation by the Central Bank of Iceland. An individual is authorised to pay a confirmation fee for a real estate transaction equalling up to 15% of the purchase price of the property without prior confirmation. If an individual sells or receives compensation for damage to a property abroad, he or she is authorised to use the sales proceeds or compensation to reinvest in another property abroad within six months.
12. Other movement of capital that is explicitly exempt pursuant to other provisions of this Act.
- b. Paragraph 3, Item 4 shall read as follows: Movement of capital for payment of legal fees pursuant to court order, accident benefits and compensatory damages, or inheritance payments in accordance with an inheritance report confirmed by a Commissioner, where payment takes place by withdrawal from the payer's account with a financial institution in Iceland.

c. A new numbered subparagraph shall be added to Paragraph 3, and it shall read as follows: Movement of capital for real estate transactions in Iceland and transactions with financial instruments issued in domestic currency according to rules set by the Central Bank of Iceland, where payment takes place by withdrawal from an account held by the purchaser at a financial undertaking in Iceland. The authorisation in the first sentence does not apply, however, when payment is made by withdrawal from an account subject to special restrictions in the sense of the Act on the Treatment of Króna-Denominated Assets Subject to Special Restrictions. Investments made by legal entities on the basis of this provision are subject to the requirement that the purchaser be the beneficial owner of the funds at the time this provision enters into force. Funds released upon the sale of the investments shall be returned to a domestic currency account owned by the seller with a financial undertaking in Iceland. The Central Bank of Iceland may set rules laying down further conditions for movement of capital according to this provision.

d. The words “Items 1-4” in Paragraph 5 are replaced by: Items 1-6.

e. A new paragraph shall be added and shall read as follows:

The Central Bank of Iceland shall publish guidelines on how to demonstrate that cross-border movement of capital derives from the transactions listed in Paragraph 2, Items 1-12.

Article 2

The following amendments shall be made to Article 13(c) of the Act:

a. The first sentence of Paragraph 2 shall be replaced by seven new sentences, which shall read as follows: It is prohibited to purchase foreign currency at a financial undertaking in Iceland when payment is remitted in domestic currency, unless it is demonstrated that the foreign currency purchase is in connection with cross-border movement of capital that is exempt pursuant to Article 13(b), Paragraph 2, Items 1-7 and 9-11. Foreign currency purchases according to the first sentence in connection with cross-border movement of capital pursuant to Article 13(b), Paragraph 2, Items 1, 3-7, and 10-11 are subject to the requirement that the payment be made to a non-resident. Notwithstanding the provisions of the first and second sentences, non-residents’ foreign currency purchases on the basis of Article 13(b), Paragraph 2, Item 4, cf. Article 13(j), are subject to the requirement that the foreign currency purchase be in connection with such payments from a resident in Iceland. It is prohibited to purchase foreign currency in cash or to withdraw foreign currency in cash from a foreign currency account with a financial undertaking in Iceland. However, purchases or withdrawals according to the fourth sentence are authorised provided that the party has an unexercised authorisation pursuant to Article 13(b), Paragraph 2, Item 6 in the same or a larger amount and the conditions laid down in Points (a)-(d) of the same Item are satisfied. It is also authorised to purchase or withdraw foreign currency from a financial undertaking in Iceland for prepayment or retirement of loans in foreign currency that have been granted by a domestic financial undertaking, provided that the party has an unexercised authorisation pursuant to Article 13(b), Paragraph 2, Item 6 in the same or a larger amount and the conditions laid down in Points (a)-(d) of the same Item are satisfied. Purchases or

withdrawals in accordance with the fifth and sixth sentences are deducted from the authorisation pursuant to Article 13(b), Paragraph 2, Item 6.

b. The words “the third sentence” in the fourth sentence of Paragraph 2 shall be replaced by the words: the ninth sentence.

c. Paragraph 3 is deleted.

d. The words “Paragraphs 1-3” in the first sentence of Paragraph 5 shall be replaced by the words: Paragraphs 1 and 2.

Article 3

Article 13(d) is deleted.

Article 4

The following amendments shall be made to Article 13(e) of the Act:

a. The words “prior to 28 November 2008” in the second sentence of Paragraph 1 are deleted.

b. A new sentence shall be added to Paragraph 1 and shall read as follows: The sales proceeds of direct investment pursuant to Article 13(b), Paragraph 2, Item 7 are not reinvestable according to this provision.

Article 5

Article 13(f) is deleted.

Article 6

The following amendments shall be made to Article 13(j) of the Act:

a. The words “Paragraphs 2 and 3” in the first sentence of Paragraph 1 shall be replaced by the words: Paragraph 2.

b. Paragraph 3 is deleted.

c. The words “instalments and indexation on bond principal shall not be exempt from the prohibitions set forth in Article 13(c), Paragraphs 2 and 3. Furthermore,” in the first and second sentences of Paragraph 5 are deleted.

d. The words “Paragraphs 2 and 3” in the second sentence and the last sentence of Paragraph 5 shall be replaced by the words: Paragraph 2.

Article 7

Article 13(k) is deleted.

Article 8

Article 13(l), Paragraph 2 of the Act shall read as follows:

The repatriation requirement according to Paragraph 1 does not apply to the following:

1. A resident individual who lives abroad, for example, temporarily for purposes of work or study.
2. Funds in connection with loans taken by an individual from non-resident entities in order to purchase real estate according to Article 13(b), Paragraph 2, Item 11 or transport equipment abroad.
3. Funds in connection with loans taken by a party for his investments pursuant to Article 13(b), Paragraph 2, Items 6 and 7.
4. Funds according to the second sentence of Article 13(e), Paragraph 1, provided that they are used for reinvestment within six months.
5. Funds released upon the sale of or due to payments of compensation for damage to real estate abroad that is owned by an individual, provided that they are used to reinvest in another property within six months.
6. Rental income received by a resident for real estate abroad, provided that it is used to pay the operating expenses of the property concerned. Operating expenses include payments on loans assumed at the time of purchase and/or taken to finance the purchase.
7. Funds released upon the sale of or due to payments of compensation for damage to transport equipment abroad that is owned by an individual, provided that they are used to reinvest in transport equipment within six months.

Article 9

The following amendments shall be made to Article 13(m) of the Act:

- a. The words “two weeks” in Paragraph 4 shall be replaced by the words: three weeks.
- b. A new paragraph shall be added and shall read as follows:

Sales proceeds and other payments in connection with investments according to Article 13(b), Paragraph 2, Items 6 and 7 are not considered new inflows of foreign currency in the sense of Paragraph 2.

Article 10

The following amendments shall be made to Article 13(n) of the Act:

- a. The words “Article 13(f), Paragraph 1” in Paragraph 3 shall be replaced by the words: the maximum amount in Article 13(b), Paragraph 2, Item 6, but not Article 13(c), Paragraph 2;.
- b. Paragraphs 4 and 5 are deleted.
- c. The words “Article 13(f), Paragraph 1” in the first sentence of Paragraph 6 shall be replaced by the words: the maximum amount in Article 13(b), Paragraph 2, Item 6, but not Article 13(c), Paragraph 2; and the provisions of.
- d. The words “, other than legal entities falling under the provisions of Paragraph 4,” in Paragraph 7 are deleted.

- e. Paragraphs 8 and 9 are deleted.
- f. A new paragraph shall be added and shall read as follows:

Parties may transfer their authorisations pursuant to Article 13(b), Paragraph 2, Item 6 and Article 13(c), Paragraph 2 to funds that operate pursuant to the Act on Undertakings for Collective Investment in Transferable Securities (UCITS), Investment Funds and Professional Investment Funds by purchasing unit share certificates in such funds, to the extent that the fund concerned uses the authorisations for investments in foreign currency. In the same manner, individuals may transfer their authorisations to insurance companies and financial undertakings on the basis of contractual agreements concerning payment of premiums for acquisition of third-pillar pension savings or supplemental insurance, and pursuant to agreements concerning investment plan insurance, single-premium insurance, and regular savings in foreign currency. A transfer pursuant to the first and second sentences shall be made in writing. Transferees pursuant to the first and second sentences shall notify the Central Bank of Iceland of transfers in accordance with this provision.

Article 11

Article 13(o) shall be amended to include a new paragraph, which shall read as follows:

The Central Bank of Iceland is authorised to set rules providing for exemptions from the restrictions contained in Articles 13(e)-13(n). The Central Bank may set conditions for exemptions from the rules, which may pertain, inter alia, to the source of funds, the ownership of funds, the purpose of individual capital movements and foreign exchange transactions, amounts of individual capital movements and foreign exchange transactions, and supervision by and information disclosure to the Central Bank.

Article 12

The following amendments shall be made to Article 14 of the Act:

- a. The first sentence shall read as follows: It is required, subject to per diem fines pursuant to Article 15(h), to provide the Central Bank of Iceland with all information that it may request concerning foreign exchange transactions and cross-border movement of capital in order that it may carry out the necessary supervision on the basis of this Act.
- b. A new sentence shall be added and shall read as follows: Statutory provisions on confidentiality shall not limit the obligation of other authorities, financial undertakings, payment institutions, and electronic money institutions to provide information and access to data on the basis of this provision.
- c. Two new paragraphs shall be added, which shall read as follows:

Resident legal entities are required to notify the Central Bank of Iceland of the following foreign exchange transactions and cross-border movement of capital that takes place without the intermediation of domestic financial undertakings within three weeks of the date the obligation is established:

- 1. Loans taken and granted between them and non-residents in an amount equivalent to at least 100,000,000 kr.

2. Amendments to terms of loans between them and non-residents if the principal amount of the loan is equivalent to at least 100,000,000 kr.
3. Guarantees undertaken between them and non-residents if the principal amount of the guarantee is equivalent to at least 100,000,000 kr.
4. Derivatives transactions between them and non-residents.
5. Issuance of bonds and other debt instruments if the principal amount of the debt instrument is equivalent to at least 100,000,000 kr.

The Central Bank is authorised to set rules on the fulfilment of the reporting requirement pursuant to Paragraph 2 and exemptions from it.

Article 13

A new numbered Item shall be inserted after Article 15(a), Paragraph 1, Item 7, and shall read as follows: Article 14, Paragraph 2 concerning the reporting requirement for specified foreign exchange transactions and movement of capital.

Article 14

The words “or Article 13(f)” in Paragraph 1, Item 2 of Temporary Provision III are deleted.

Article 15

Two new temporary provisions shall be added to the Act and shall read as follows:

a. (IV.)

Notwithstanding the provision contained in the first sentence of Article 13(b), Paragraph 2, Item 6, each party’s capital transfers according to that provision shall be authorised only up to a combined total equivalent to 30,000,000 kr. until 1 January 2017.

The Central Bank of Iceland shall review the maximum amount provided for in the first sentence of Article 13(b), Paragraph 2, Item 6 before 1 July 2017; cf. the authorisation to set rules pursuant to Article 13(b), Paragraph 4.

Notwithstanding the investment authorisation provided for in Article 13(b), Paragraph 2, Item 6, securities shall be held in custody with a domestic custodian until 1 January 2017. Furthermore, cross-border movement of capital in foreign currency that entails importation and exportation of securities or deposits to and withdrawals from accounts with deposit institutions shall be prohibited until the same date. The same applies to cash withdrawals or purchases of foreign currency in cash pursuant to the fifth sentence of Article 13(c), Paragraph 2.

Violations of this provision are punishable by administrative fines and by penalties according to Articles 15(a)-15(d) and Articles 16, 16(a), and 16(b).

b. (V.)

Until 1 January 2017, individuals are authorised to purchase or withdraw foreign currency in cash from a financial undertaking in Iceland upon satisfying the following conditions:

1. The foreign currency must be intended for use during travel abroad. When purchasing or withdrawing foreign currency, the individual must provide evidence of the proposed travel by presenting a travel ticket or payment receipt for a trip to be taken within four weeks. Crew members without a travel ticket shall demonstrate their travel plans by presenting a shift roster or through some other verifiable means.
2. The amount of purchased or withdrawn foreign currency in cash may not exceed the equivalent of 700,000 kr. per individual according to Item 1 per trip taken, unless a special need for additional cash withdrawal is demonstrated.
3. The resident individual must purchase or withdraw foreign currency in cash from a financial undertaking in Iceland with which he/she does business.
4. It must be demonstrated that the individual – or the individual’s custodial parent or guardian, if the individual is not legally competent – is the owner of the funds used to pay for the foreign currency purchased or the foreign currency account from which the withdrawal is made. Notwithstanding the provisions of the first sentence, an individual is permitted to purchase foreign currency for a spouse.
5. The individual specified upon the purchase or withdrawal of the foreign currency must take the funds out of the country him- or herself.

A financial undertaking in Iceland may apply for an exemption from Paragraph 1, authorising a branch of that financial undertaking to sell foreign currency, in an amount not to exceed 700,000.00 kr. per trip taken, to a resident individual without an established business relationship with the undertaking concerned, if it is demonstrated that the funds will be used for travel abroad. The Central Bank of Iceland shall publicly disclose information on entities that receive exemptions on the basis of this provision.

Violations of this provision are punishable by administrative fines and by penalties according to Articles 15(a)-15(d) and Articles 16, 16(a), and 16(b).

Article 16

This Act shall enter into force at once.

Article 17

Amendments to other Acts

Upon the entry into force of this Act, the following amendments shall be made to other Acts:

1. The Act on the Central Bank of Iceland, no. 36/2001, with subsequent amendments: The following amendments shall be made to Article 29 of the Act:

a. Two new sentences shall be inserted after the first sentence of Paragraph 1 and shall read as follows: For the same purpose, the Central Bank may also collect information from legal entities on assets and financial obligations in foreign currency, such as direct investment, portfolio investment, other investments in negotiable financial instruments, lending activity, guarantees, derivatives transactions, and issuance of bonds and other debt instruments. The information pursuant to the first and second sentences shall be provided in the form decided by the Central Bank.

b. The following shall be inserted after the word “obligation” in the third sentence of Paragraph 1: of other authorities, financial undertakings, payment institutions, and electronic money institutions.

c. A new paragraph shall be added and shall read as follows:

The Central Bank may set more detailed rules on the implementation of this Article.

2. The Act on the Treatment of Króna-Denominated Assets Subject to Special Restrictions, no. 37/2016, with subsequent amendments:

a. The following amendments shall be made to Article 3 of the Act:

1. The following shall be inserted after the words “foreign electronic money institutions” in Item 3: and payment institutions.

2. The words “Article 13(c), Paragraph 3” in Item 3 shall be replaced by: Article 13(c), Paragraph 2.

3. The word “Those” at the beginning of Item 4 shall be replaced by: Confirmed new investments pursuant to Article 13(m) and of the Foreign Exchange Act and those.

b. The following shall be added to the first sentence of Article 9, Paragraph 3, Item 2 of the Act: or book value of the underlying assets.

Passed by Parliament on 11 October 2016.