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THE FOREIGN EXCHANGE MANAGEMENT LAW

(10 August 2012)

Pyihtaungsu Hluttaw Law No. 12/2012

8th Waning of Second Waso 1374 M.E.

Introduction

In order to be better manage and support the development of the country's economy and to broaden cooperation with the foreign economies, the Pyihtaungsu Hluttaw hereby enacts the following law.

Chapter (1)

Title and Definitions

1. This law shall be called as the Foreign Exchange Management Law.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) **State** means the Republic of the Union of Myanmar.
 - (b) **Foreign currency** includes foreign currency such as coins, currency notes, postal orders, cheques, letters of credit, money orders, traveler's cheques, bills of exchange, and promissory notes.
 - (c) **Foreign exchange** includes:
 - foreign currency;
 - all instruments concerning payment in foreign currency or payment abroad;
 - deposits in intergovernmental financial institutions, central banks, treasuries and commercial banks abroad;
 - foreign currency accounts in local banks;
 - securities in foreign currency and instruments issued or guaranteed by foreign governments, foreign financial institutions and intergovernmental financial institutions.
 - (d) **Person** means any individual, corporation, statutory body, institution, cooperative society, partnership and any other body, organization, association or group of persons, incorporated or unincorporated.
 - (e) **Person resident in the country** means:
 - Individuals having been physically present or having had their main residence in the country for at least 183 days during the preceding 12 months, with the exception of diplomatic personnel;

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- Companies incorporated in the country or domestically registered branches of foreign companies;
 - Myanmar civil servants on diplomatic missions or other assignment abroad.
- (f) **Non-resident person** means a person outside the scope of subsection (e).
- (g) **Central Bank** means the Central Bank of the Myanmar.
- (h) **Foreign exchange licensee** means a person authorized by the Central Bank to perform foreign exchange operations: accepting, exchanging, buying, selling, transferring and making payments locally and abroad. Licensed money changers and authorized dealers are included in this definition.
- (i) **Licensed money changer** means a dealer authorized by the Central Bank to perform foreign exchange operations on the basis of cash and traveler cheques.
- (j) **Authorized dealer** means a bank authorized by the Central Bank to engage in “foreign banking” including performing foreign exchange transactions.
- (k) **Securities** means
- Treasury bills, treasury bonds and debentures issued or undertaken to be issued by the government or its institutions;
 - Treasury bills, treasury and other bonds, debentures issued by international institutions or foreign governments;
 - Shares, stocks, bonds and debentures issued by public companies;
 - Rights in respect of shares, stocks, bonds and debentures.
- (l) **Ordinary transaction** means payments for other purposes than the transfer of capital such as:
- Payments to be made in connection with foreign trade, other ongoing business including services, ordinary short-term banking and credit facilities;
 - Payments to be made as interest on loans and as net income from other investments;
 - Payments in a reasonable amount to amortize loans and depreciate direct investment;
 - Reasonable remittance for family expenses.
- (m) **Capital transaction** means payments other than payments defined in sub-clause (l) for the purpose of transferring capital.

Chapter (2)

Rights and obligations of the Central Bank

3. The Central Bank shall:
- (a) issue the foreign exchange management policies;
 - (b) announce the daily reference rate on the basis of the market exchange rate.

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4.
 - (a) The government may announce a “foreign exchange emergency period” not exceeding 3 months. The government may announce additional foreign exchange emergency periods once at a time; none of these periods shall exceed 3 months.
 - (b) The Central Bank may limit the activities of licensed money changers and authorized dealers during this period.
5. The Central Bank shall support the systematic and smooth running of the inter-bank monetary market and may engage in the trading of foreign exchange.

Chapter (3)

Foreign Exchange Activities

6. Foreign Exchange activities covered by this law are as follow:
 - (a) Payments in foreign currency within the country;
 - (b) Other payments made in foreign exchange within the country;
 - (c) International payments and transfers of foreign exchange;
 - (d) Purchase and sale of foreign currency within the country;
7. Foreign cash and other payment instruments can only be transferred between Myanmar and other countries according to the regulations issued by the Central Bank.
8. Other transfers may only be made through a foreign exchange licensee.
9. Only authorized dealers may trade in foreign exchange. Licensed money changers may only buy and sell foreign cash and traveler cheques.

Chapter (4)

Holding/opening account/use of foreign currency

10. Persons resident in the country may hold a specified amount of foreign currency in accordance with the law. They may exchange their foreign currency through a foreign exchange licensee at market price.

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11. Any person who is holding foreign currency shall deposit their foreign currency only in accounts with an authorized dealer
12. Any person resident in the country shall transfer all of their foreign currency, earned outside the country, into the country according to the regulations of the Central Bank and deposit the amounts in an account with an authorized dealer.
13. Any person resident in the country or resident outside the country may sell their foreign exchange to an authorized dealer and use kyats to repurchase foreign exchange.
14. Residents can open a bank account abroad and use the funds in it for the following purposes:
 - a. For transportation by land, water and air; insurance; tourism; labour export; contracting a construction project abroad;
 - b. For settlement of foreign debt;
 - c. In order to open a branch office abroad and to operate foreign currency services abroad if approved by the relevant authorities;
 - d. For other purposes as the approved by relevant government departments or the Central Bank.
15. Those who have a foreign bank account according to the above Sec. 14, shall file reports with the Central Bank.
16. Local economic enterprises who have the foreign bank account outside the country shall report the information regarding the administration of their foreign exchange.

Chapter (5)

International Transactions by KYAT

17. International payments and transactions in kyats, payment and other settlement shall do only according to the regulations issued by the Central Bank.

Chapter (6)

Foreign Exchange Licensees and Authorized Dealers

18. Foreign exchange licensees shall:
 - (a) carry out only the activities listed in the license;

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- (b) be in compliance with this law; money laundry control law; and other relevant foreign exchange laws.
- 19. Authorized dealers may lend foreign exchange to citizens only within the regulations issued by the Central Bank.
- 20. Authorized dealers can receive deposits in foreign exchange from the public only within the regulations issued by the Central Bank.
- 21. Authorized dealers can trade foreign exchange in the inter-bank market and buy and sell foreign exchange from and to the public only within the regulations issued by the Central Bank.
- 22. License holders shall follow all rules and regulations of this law.

Chapter (7)

Bringing/taking foreign exchange and jewelry into/out of the country

- 23. Persons resident in the country and outside the country may bring foreign exchange and jewelry for personal use into and out of the country according to the regulations issued by the Central Bank.

Chapter (8)

Transactions of ordinary account

- 24. There shall be no impediment, neither directly nor indirectly, on payments and other transfers for ordinary transactions from abroad into the country.
- 25. There shall be no impediment, neither directly nor indirectly, on payments and other transfers for ordinary transactions from inside the country to countries abroad.

Chapter (9)

Transactions of large amount account

- 26. The Central Bank shall check all incoming foreign investment in order to have a reference for outward payments aimed at repatriating the principal, interests, profits and dividends.

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27. Foreign investors declare the funds brought into the country together with documentary evidence to the Central Bank. Failure to do so may result in an inability to repatriate the funds.
28. Foreign investors can transfer their fund back to their countries or to third country after the termination of investment period according to the existing rules issued by the Central Bank.
29. A person resident in the country may invest outside of the country only according to the regulations issued by the Central Bank.
30. The Central Bank may issue regulations aimed at limiting capital transactions. However, no limits shall apply to the following:
 - (a) payback of the principal of loans which the Union Government has allowed;
 - (b) aid given to foreign which the Union Government has allowed;
 - (c) investment in foreign country which the Union Government has allowed.
31. Nothing in this law shall repeal, or make exception, of the Foreign Investment Law. The Foreign Investment Law takes precedence in case of inconsistencies.

Chapter (10)

Management Power of the Central Bank

32. Central Bank shall:
 - a. Issue licenses; reject license applications and withdraw licenses of foreign exchange licensees;
 - b. Controlling and monitoring the foreign exchange licensees;
 - c. provide regulations in order to limit foreign exchange amounts held by foreign exchange licensees;
 - d. provide regulations in order to limit the net amounts in a single currency or multiple currencies held by foreign exchange licensees, limit the amount of foreign debt, and in order to stipulate other requirements;

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33. The Central Bank has the right to collect all necessary data from the foreign exchange licensees. The staff of the Central Bank and other designated qualified persons may inspect the accounts, books, documents and other records of the foreign exchange licensees.
34. Central Bank may withdraw a foreign exchange license if:
- (a) the applicant provided wrong information regarding the experience or integrity of officers, directors and main shareholders, or if there were other irregularities in the application;
 - (b) the license holder itself applied for the withdrawal of the license;
 - (c) there was failure on the part of the license holder to follow the rules, regulations, notifications, orders, instructions and procedures;
 - (d) the license holder failed to follow Section 22, and the prohibitions under Sections 39 and 40.
 - (e) the license holder was punished for money laundering; tax fraud or other money-related offenses;
 - (f) the Central Bank finds that the license holder is likely to be unable to fulfill its duties towards its customers or pay them, or that its losses have wiped out, or are likely to wipe out, its assets.
35. The Central Bank may impose the following penalties on foreign exchange licensees for violation of any provisions of chapter 6:
- (a) Warning;
 - (b) Limiting the operations;
 - (c) Fine;
 - (d) Permanent or temporary discharge from duty of the responsible officer or staff;
 - (e) Withdrawal of the license.
36. Any decision made under Section 35 may be appealed with the Supreme Court.
37. The imposition of administrative penalties under this law shall not preclude criminal or civil actions.

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Chapter (11)

Restrictions

38. No person can engage in foreign exchange activities without a license.
39. License holders shall not engage in foreign exchange activities that are not stipulated in the license issued by the Central Bank.
40. License holder shall:
- (c) report to the Central Bank any information upon request;
 - (d) not disturb the auditing process done by the Central Bank.
41. No license holder shall violate the rules; regulations; orders and notifications issued under this law.

Chapter (12)

Offence and Penalty

42. Any person violating Article 38 shall be subject to up to three years imprisonment, or a fine, or both. Furthermore, the assets may be confiscated.
43. Any foreign exchange licensee violating Article 39 shall be subject to up to three years imprisonment, or a fine, or both. Furthermore, the assets may be confiscated.
44. Any foreign exchange licensee violating Article 40 or 41 shall be subject to up to one year imprisonment, or a fine, or both.

Chapter (13)

Miscellaneous

45. Before taking legal actions under this Law, approval from the Central Bank must be obtained.
46. Offences prosecuted under this Law are prescribed as cognizable offences.

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47. Any rule, notification, directive, order or notice made or issued under the Foreign Exchange Regulation Act, 1947 (hereby repealed) shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been issued under the corresponding provisions of this Act;

48. Any person implementing this law, discharging his assigned duties in good faith, shall not be subject to legal actions in a criminal or civil suit.

49. While the Central Bank implementing this law, it shall:

- (a) issues the necessary rules and regulations;
- (b) notifications, order, instruction and procedures.

50. The Foreign Exchange Regulation Act, 1947 is hereby repealed by this Law.

I hereby sign this law under the Constitution of the Republic of the Union of Myanmar.

Sd.

Thein Sein

President

The Republic of the Union of Myanmar