

**ACT**

**ON AMENDMENTS TO THE FOREIGN EXCHANGE ACT**

Article 1

In the Foreign Exchange Act (Official Gazette 96/03, 140/05, 132/06, 150/08, 92/09, 133/09, 153/09, 145/10 and 76/13), Article 1.a is amended to read:

“This Act ensures the implementation of the following acts of the European Union:

- 1) Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005 (OJ L 284, 12. 11. 2018) (hereinafter: Regulation (EU) 2018/1672;
- 2) Council Regulation (EU) No 2182/2004 of 6 December 2004 concerning medals and tokens similar to euro coins (OJ L 373, 21.12. 2004), as last amended by Council Regulation (EC) No 46/2009 of 18 December 2008 (OJ L 17, 22. 1. 2009) – hereinafter: Regulation (EU) No 2182/2004;
- 3) Council Regulation (EC) No 2183/2004 of 6 December 2004 extending to the non-participating Member States the application of Regulation (EC) No 2182/2004 concerning medals and tokens similar to euro coins (OJ L 373, 21. 12. 2004), as last amended by Council Regulation (EC) No 47/2009 of 18 December 2008 (OJ L 17, 22. 1. 2009).”.

Article 2

The title above Article 40 is amended to read: “Controls on cash – definition of terms”.

Article 40 is amended to read:

“The terms used in this Act relating to controls on cross-border transfers of cash shall have the same meaning as the terms determined in Article 2, paragraph (1) of Regulation (EU) 2018/1672, relating to the definitions: ‘cash’, ‘entering or leaving the Union’, ‘currency’, ‘bearer-negotiable instruments’, ‘commodity used as a highly-liquid store of value’, ‘prepaid card’, ‘competent authorities’, ‘carrier’, ‘unaccompanied cash’, ‘criminal activity’, ‘Financial Intelligence Unit (FIU)’.”.

Article 3

The title above Article 40.a is amended to read: “Controls on cash brought into the Republic of Croatia and taken out of the Republic of Croatia into another Member State”.

Article 40.a is amended to read:

“(1) Natural persons entering the Republic of Croatia from another Member State or leaving the Republic of Croatia and entering another Member State, or having entered the Republic of Croatia from another Member State, shall, upon request from the authorised customs official or border police official declare the cash they are carrying if that cash equals a value of EUR 10,000.00 or more, in writing, using the declaration form containing the information referred to in Article 3, paragraph (2) of Regulation (EU) 2018/1672.

(2) The obligation of declaration referred to in paragraph (1) of this Article shall not be considered fulfilled if the information provided is incorrect or incomplete or if the cash has not been made available for control.”.

#### Article 4

After Article 40.a, Articles 40.b and 40.c and their titles are added, which read:

“Temporary detention of cash

Article 40.b

(1) The Customs Administration shall temporarily detain cash if:

1 the obligation to declare accompanied cash under Article 3 of Regulation (EU) 2018/1672 has not been fulfilled;

2 the obligation to disclose unaccompanied cash under Article 4 of Regulation (EU) 2018/1672 has not been fulfilled;

3 the obligation to declare cash referred to in Article 40.a of this Act has not been fulfilled;

4 there are indications that the cash, irrespective of the amount, is related to criminal activity.

(2) The Customs Administration shall issue a decision on a temporary detention of cash referred to in paragraph (1) of this Article in accordance with the provisions of the law regulating misdemeanour proceedings, which shall not exceed 30 days.

(3) After the Customs Administration carries out a thorough assessment of the necessity and proportionality of a further temporary detention, it may decide to extend by means of a decision the period of temporary detention referred to in paragraph (2) of this Article to a maximum of total 90 days.

(4) An appeal may be filed against the decision referred to in paragraphs (2) and (3) of this Article within three days of the day of receipt of the decision.

(5) No appeal filed against the decision referred to in paragraphs (2) and (3) of this Article shall stay its execution.

(6) The appeal filed against the decision referred to in paragraphs (2) and (3) of this Article shall be decided in the second instance by the High Misdemeanour Court of the Republic of Croatia.

(7) When the cash in temporary detention cannot be returned, after expiry of three years of the date on which the decision on the return of cash becomes final, the cash in temporary detention shall become the revenue of the state budget.

Medals and tokens similar to euro coins

Article 40.c

(1) Natural and legal persons producing, selling, importing for sale or other commercial purposes or distributing for such purposes medals and tokens shall comply with Regulation (EC) No 2182/2004.

(2) Any person who in any way whatsoever comes into possession of a medal or token that such person suspects is contrary to Regulation (EC) No 2182/2004 shall notify the Croatian National Bank thereof.

The Croatian National Bank shall forward the medals and tokens received or which come into its possession in any other way to the European Commission for opinion on whether they are contrary to Regulation (EC) No 2182/2004.

(4) The opinion referred to in paragraph (3) of this Article shall not be required for medals and tokens for which the European Commission has already issued an opinion.

(5) The Croatian National Bank shall communicate in writing the opinion provided by the European Commission determining that the medals or tokens in question are contrary to Regulation (EC) No 2182/2004 to the natural or legal person producing, selling, importing for sale or other commercial purposes or distributing for such purposes such medals or tokens in the Republic of Croatia.

(6) Any person that has been communicated the opinion referred to in paragraph (5) of this Article shall withdraw from circulation and destroy the medals and tokens determined in the opinion as being contrary to the Regulation (EC) No 2182/2004 and shall notify the Croatian National Bank thereof in writing.

(7) Upon receipt by the Croatian National Bank of the opinion provided by the European Commission referred to in paragraph (5) of this Article relating to the medals and tokens in its possession; where it is not possible to determine who produced, introduced for sale or other commercial purposes or distributed for such purposes such medals or tokens, the Croatian National Bank shall detain such medals and tokens and shall have the right

to destroy them following expiry of the time limit of four years of the date of receipt of such an opinion.”.

#### Article 5

The title above Article 59 and Article 59 are amended to read:

“Authorities competent for controls on cash

#### Article 59

(1) The authority competent for the implementation of Regulation (EU) 2018/1672 and for the implementation of the controls on cash referred to in Article 40.a of this Act shall be the Customs Administration.

(2) The Government of the Republic of Croatia shall issue a decree regulating that for economical reasons the controls on accompanied cash referred to in paragraph (1) of this Article are also to be performed by the border police if reasons of security thus allow.

(3) When the controls on cash are performed by border police officials, the authorised customs officials shall provide them with instructions and professional assistance.

(4) The declaration forms referred to in Article 3, paragraph (3) and Article 4, paragraph (3) of Regulation (EU) 2028/1672 and the declaration forms referred to in Article 40.a of this Act shall be available in customs offices and on the websites of the Customs Administration and Financial Inspectorate.

(5) The Customs Administration shall be the authorised prosecutor responsible for initiating misdemeanour proceedings for the misdemeanours referred to in Articles 69 to 69.c of this Act.”.

#### Article 6

After Article 59, Article 59.a and its title are added which read:

“Record-keeping, exchange and storage of data

#### Article 59.a

(1) The Customs Administration shall keep and manage records of data collected in accordance with Article 3, Article 4, Article 5, paragraph (3) and Article 6 of Regulation (EU) 2018/1672 in accordance with the technical rules referred to in Article 16, paragraph (1), item (c) of Regulation (EU) 2018/1672.

(2) The Customs Administration shall record data on the transfer of cash referred to in Article 40.a of this Act and data on the transfer of cash referred to in Article 40.a of this

Act of a value below EUR 10 000 if there are indications that it is related to criminal activity.

(3) The Customs Administration shall communicate the collected data on the transfer of cash referred to in Article 40.a of this Act to the Anti-Money Laundering Office at the latest within three days of the day of cash transfer.

(4) The Customs Administration shall communicate the collected data on the transfer of cash referred to in Article 40.a of this Act for which there are indications that it is related to criminal activity, irrespective of the amount, to the Anti-Money Laundering Office at the latest on the first working day of the day of cash transfer.

(5) The Customs Administration shall keep the records of data on the transfer of cash referred to in Article 40.a of this Act and the transfer of cash referred to in Article 40.a of this Act for which there are indications that it is related to criminal activity, irrespective of the amount, for a period of five years of the day of collection and that period may be extended to further three years provided that:

1 the Anti-Money Laundering Office, after having made a thorough assessment of the necessity and proportionality of such extended record-keeping determines that such further record-keeping is justified for the purposes of the execution of its prevention of money laundering and terrorist financing tasks; or

2 the competent authorities referred to in Article 89 of this Act, after having made a thorough assessment of the necessity and proportionality of such further record-keeping and if they consider it justified for the purposes of execution of their tasks related to effective enforcement of control of the fulfilment of the obligation to declare cash, determine that such further record-keeping is essential.

(6) After expiry of the time limits referred to in paragraph (5) of this Article, personal data and information collected in accordance with paragraphs (1) and (2) of this Article shall be destroyed in accordance with the law regulating archival materials and archives.”.

#### Article 7

In Article 63, paragraph (1), item (21), the words: “applied on the basis of the Regulation (EC) No 2183/2004” are deleted.

In item (22), the words: “Article 40.a, paragraph (4)” are replaced by the words: “Article 40.c, paragraph (6)”, and the words: “applied on the basis of the Regulation (EC) No 2183/2004” are deleted.

#### Article 8

Article 69 is amended to read:

“(1) A fine of HRK 40,000.00 to HRK 400,000.00 shall be imposed for misdemeanour on any legal person failing to submit a disclosure declaration, in writing or electronically using the declaration form, of cash of a value of EUR 10,000.00 or more entering or leaving the European Union through the Republic of Croatia, or provides incorrect or incomplete information, as a sender or a recipient or a representative thereof, within 30 days of the receipt of the request from the Customs Administration to do so (Article 4 of Regulation (EU) 2018/1672).

(2) A fine of HRK 25,000.00 to HRK 250,000.00 shall be imposed on any craftsman or self-employed person committing the misdemeanour referred to in paragraph (1) of this Article.

(3) A fine of HRK 5,000.00 to HRK 100,000.00 shall be imposed on any natural person committing the misdemeanour referred to in paragraph (1) of this Article.

(4) A fine of HRK 3,000.00 to HRK 100,000.00 shall be imposed on the responsible person of a legal person for the misdemeanour referred to in paragraph (1) of this Article.”.

#### Article 9

After Article 69, Articles 69.a to 69.d are added which read:

##### “Article 69.a

A fine of HRK 5,000.00 to HRK 100,000.00 shall be imposed on any natural person entering or leaving the European Union through the Republic of Croatia and carrying cash of a value of EUR 10 000 or more who fails to fulfil the obligation to declare such cash to the Customs Administration or border police in writing or electronically using the declaration form, or provides incorrect or incomplete information or fails to make such cash available for control (Article 3 of Regulation (EU) 2018/1672 and Article 59, paragraph (4) of this Act).

##### Article 69.b

A fine of HRK 5,000.00 to HRK 100,000.00 shall be imposed on any natural person that, at the time of entry or following entry into the Republic of Croatia from another Member State or at the time of leaving the Republic of Croatia and entry into another Member State, upon request of the authorised customs official or border police official, fails to fulfil the obligation to declare cash carrying in a value of EUR 10,000.00 or more, in writing, using the form containing the information referred to in Article 3, paragraph (2) of Regulation (EU) 2018/1672 or provides incorrect or incomplete information or fails to make such cash available for control (Article 40.a of this Act).

##### Article 69.c

(1) If the value of cash that is the subject of misdemeanour is EUR 100,000.00 or more or if the cash that is the subject of misdemeanour was hidden or if the misdemeanour was committed in another particularly disrespectful manner:

1 a fine up to HRK 2,000,000.00 shall be imposed on any legal person committing the misdemeanour referred to in Article 69, paragraph (1) of this Act;

2 a fine up to HRK 1,000,000.00 shall be imposed on any craftsman, self-employed person or a natural person committing the misdemeanour referred to in Article 69, paragraph (1) of this Act;

3 a fine up to HRK 1,000,000.00 shall be imposed on any natural person committing the misdemeanour referred to in Article 69.a or 69.b of this Act.

(2) A fine of up to HRK 200,000.00 shall be imposed on the responsible person of a legal person for the misdemeanour referred to in paragraph (1), item (1) of this Article.

#### Article 69.d

(1) The fine imposed for the misdemeanours referred to in Articles 69 to 69.c of this Act shall not exceed 60% of the amount of the undeclared cash.

(2) The amount of the fine and costs of the misdemeanour proceedings for the misdemeanours referred to in Articles 69 to 69.c of this Act shall be settled by forced collection from temporarily detained cash unless paid within the time limit set in the decision on misdemeanour.”.

#### Article 10

Article 70 is amended to read:

“(1) The Financial Inspectorate and the Customs Administration, when performing foreign exchange control shall temporarily seize, against a receipt, the kuna and foreign exchange cash and the cash referred to in Article 40.b of this Act as well as the documentation and other objects used to commit the misdemeanour, which result from the misdemeanour or may be used as evidence in misdemeanour proceedings, in accordance with the regulations governing misdemeanour proceedings.

(2) The supervisory bodies referred to in paragraph (1) of this Article shall pay the assets temporarily seized by them immediately into the special accounts of the Ministry of Finance – the Financial Inspectorate and the Customs Administration.”.

#### Article 11

After Article 74, Article 74.a is added which reads:

“Article 74.a

The misdemeanours defined under this Act shall be considered financial misdemeanours.”.

## TRANSITIONAL AND FINAL PROVISIONS

### Article 12

The Government of the Republic of Croatia shall issue the decree referred to in Article 5 of this Act at the latest within one year of the day of entry into force of this Act.

### Article 13

This Act shall be published in the Official Gazette and shall enter into force on 3 June 2021.