

ACT
ON AMENDMENTS TO THE FOREIGN EXCHANGE ACT

(Official Gazette 76/2013)

Article 1

In the Foreign Exchange Act (Official Gazette 96/03, 140/05, 140/05, 132/06, 150/08, 92/09, 133/09, 153/09 and 145/10), after Article 1 a new heading and an Article 1.a are added to read:

"Implementation of EU regulations

Article 1.a

This Act regulates the implementation of the following EU regulations:

- Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community (OJ L 309, 25. 11. 2005), hereinafter: Regulation (EC) No 1889/2005;
- COUNCIL REGULATION (EC) No 2182/2004 of 6 December 2004 concerning medals and tokens similar to euro coins (OJ L 373, 21. 12. 2004), hereinafter: Regulation (EC) No 2182/2004; and
- Council Regulation (EC) No 2183/2004 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), hereinafter: Regulation (EC) No 2183/2004."

Article 2

The heading of Article 40 is amended to read: "Cash entering or leaving the European Union"

Article 40 is amended to read:

"(1) Natural persons entering or leaving the European Union through the Republic of Croatia, carrying cash of a value of EUR 10,000.00 or more shall be obliged, in accordance with Article 3, paragraph (1) of the Regulation (EC) No 1889/2005, to declare to the Ministry of Finance - Customs Administration the details referred to in Article 3, paragraph (2) of that Regulation in writing on a declaration form available in customs offices at the border crossings and published on the websites of the Ministry of Finance - Customs Administration and of the Financial Inspectorate.

(2) For the purposes of this Article, the term "cash" has the meaning identical to that defined in the Regulation (EC) No 1889/2005."

Article 3

The heading of Article 40.a is amended to read: "Medals and tokens similar to euro coins".

Article 40.a is amended to read:

"(1) Natural and legal persons producing, selling or importing for sale or for other commercial purposes, or distributing for these purposes, medals and tokens in the Republic of Croatia shall be obliged, pursuant to the Regulation (EC) No 2183/2004, to comply with the Regulation (EC) No 2182/2004.

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

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

(4) The Croatian National Bank shall submit the opinion of the European Commission regarding the non-compliance of the medals and tokens with the Regulation (EC) No 2182/2004 to the natural and legal persons referred to in paragraph (1) of this Article.

(5) The natural and legal persons referred to in paragraph (1) of this Article that have received the opinion referred to in paragraph (4) of this Article shall, without delay, withdraw from circulation and destroy the medals and tokens found to be contrary to the Regulation (EC) No 2182/2004 according to that opinion, and shall notify the Croatian National Bank thereof."

Article 4

In Article 45, paragraph (4) is deleted.

Article 5

In Article 46, paragraph (3) item (4) is amended to read:

"4. an authorised exchange office that is a craftsman or a sole trader and, in the case of an exchange office that is a legal person, a member of the management board or executive director of a joint stock company that has a management board, a procurator, or any of the qualified owners of the authorised exchange office referred to in Article 46.a, paragraph (1), item 2 and paragraph 2, item 2 of this Act, has not been convicted with finality of any of the following criminal offences in the Republic of Croatia:

- the offences referred to in Article 279 (concealment of illegally obtained money) of the Criminal Code (Official Gazette 110/97, 27/98 and 50/00 - Decision of the Constitutional Court of the RC, 51/01, 111/03 and 190/03 - Decision of the Constitutional Court of the RC, 105/04, 84/05, 71/06 and 110/07);
- the offences referred to in Article 173 (drug abuse), Article 175 (human trafficking and slavery), Article 187.a (preparation of criminal offenses against the values protected by international law), Article 223 (violation of confidentiality, integrity and availability of computer data, programmes or systems), Article 223.a (computer forgery), Article 224.a (computer fraud), Article 274 (counterfeit of money), Article 275 (counterfeit of securities), Article 276 (counterfeit of value tokens), Article 277 (the production, procurement, possession, sale or making available of counterfeiting devices), Article 278 (counterfeit of labels for goods, measures and weights), Article 279 (money laundering), Article 286 (evasion of taxes and other levies), Article 287 (violation of the obligation to keep trading and business books), Article 291 (unconscionable business conduct), Article 292 (abuse of authority in business dealings), Article 293 (fraud in business dealings), Article 294.a (accepting a bribe in business dealings), Article 294.b (giving a bribe in business dealings), Article 311 (falsification of documents), Article 312 (falsification of official documents), Article 313 (special cases of falsification), Article 314 (the production, procurement, possession, sale or making available of document falsification devices) and Article 315 (certification of untrue content) of the Criminal Code (Official Gazette 110/97, 27/98 and 50/00 - Decision of the Constitutional Court of the RC, 129/00, 51/01, 111/03 and 190/03 - Decision of the Constitutional Court of the RC, 105/04, 84/05, 71/06, 110/07, 152/08, 57/11 and 77/11 - Decision of the Constitutional Court of the RC.
- the offences referred to in Article 98 (terrorist financing), Article 105 (slavery), Article 106 (human trafficking), Article 190 (unauthorised production and trafficking of drugs), Article 191 (allowing drug use), Article 246 (abuse of trust in business dealings), Article 247 (fraud in business dealings), Article 248 (violation of the obligation to keep trading and business books), Article 252 (accepting a bribe in business transactions), Article 253 (giving a bribe in business transactions), Article 256 (evasion of taxes or duties), Article 258 (subsidy fraud), Article 265 (money laundering), Article 274 (counterfeit of money), Article 275 (counterfeit of securities), Article 276 (counterfeit of value tokens), Article 277 (counterfeit of labels for goods, measures and weights), Article 278 (falsification of documents), Article 279 (falsification of official or business documents), Article 281 (certification of untrue content), Article 283 (the production, procurement, possession, sale or making available of counterfeiting devices), or any of the offences against computer systems, programmes and data (Title XXV) referred to in the Criminal Code; or
- any of the offences prescribed by this Act,

or abroad, for offences meeting the description of criminal offences referred to in indents 1, 2, 3 and 4 of this item, and, where it has been convicted with finality of any of

these offences, at least five years have elapsed since the verdict's finality, where the time spent serving the term shall not be included in this five-year period."

Article 6

In Article 46.a, paragraph (4) is amended to read:

"(4) Any application which is not accompanied by all the necessary documentation referred to in this Article of the Act shall be considered incomplete."

Article 7

In Article 46.b, paragraph (1), item (3) is amended to read:

"3. if it establishes that the applicant that is a craftsman or a sole trader and, in the case of an applicant that is a legal person, a member of the management board or executive director of a joint stock company that has a management board, a procurator, or any of the qualified owners of the applicant referred to in Article 46.a, paragraph (1), item 2 and paragraph (2), item (2) of this Act, does not meet the conditions referred to in Article 46, paragraph (3), item (4) of this Act,".

Paragraph (2) is amended to read:

"(2) The Croatian National Bank shall decide on the application no later than 60 days from the receipt of a valid application for the issue of the authorisation to conduct exchange transactions."

Article 8

Article 50 is amended to read:

"(1) The residents referred to in Article 2, paragraph (1), items (1), (2) and (3) of this Act, except banks, shall keep control books on all payments and collections arising from external capital transactions, irrespective of whether the data entered in that book should also be entered in other books and records which such residents are obliged to keep pursuant to other regulations.

(2) The control book shall be made available to foreign exchange control officials immediately and no later than on the next working day.

(3) The Minister of Finance shall prescribe, in a decree, the content and manner of keeping control books."

Article 9

Article 59 is amended to read:

"(1) The Ministry of Finance – Customs Administration shall, in accordance with the Regulation (EC) No 1889/2005 exercise supervision in terms of Article 40 of this Act over the denominations and amounts of the cash brought into and taken out of the European Union through the Republic of Croatia by natural persons in passenger traffic.

(2) The Ministry of Finance – Customs Administration shall exercise supervision over the denominations and the amounts of foreign cash, domestic cash and securities brought into or taken out of the European Union through the Republic of Croatia by residents and non-residents in passenger, goods and postal traffic.

Article 10

In Article 61, paragraph (3), the words "the fine imposed on" and the words "may be reduced or they" are deleted.

Article 11

In Article 63, paragraph (1), items (21) and (22) are amended to read:

"21. engages in the production, sale, importation for sale or for other commercial purposes, or distribution for these purposes, of medals and tokens similar to euro coins contrary to Articles 2, 3 and 4 of the Regulation (EC) No 2182/2004 applied on the basis of the Regulation (EC) No 2183/2004,

22. fails to withdraw from circulation and destroy without delay the medals and tokens which have been found, according to the opinion referred to in Article 40a, paragraph (4) of this Act, to be contrary to the Regulation (EC) No 2182/2004 applied on the basis of the Regulation (EC) No 2183/2004,"

Article 12

Article 69 is amended to read:

"(1) A fine of HRK 5,000.00 to HRK 50,000.00 shall be imposed for misdemeanour on any natural person entering or leaving the European Union through the Republic of Croatia who attempts to take, or takes over the state borders, without declaring it to the Ministry of Finance - Customs Administration in writing on a declaration form, cash in terms of Article 40 of this Act, in the amount of EUR 10,000.00 or more (Article 40 of this Act and Article 3 of the Regulation (EC) No 1889/2005).

(2) Cash in terms of Article 40 of this Act, as the subjects of the misdemeanours referred to in paragraph 1 of this Article, shall be seized on the basis of a misdemeanour ruling in favour of the Government Budget of the Republic of Croatia.

(3) Cash in terms of Article 40 of this Act, as the subjects of misdemeanours, may be seized even if it is not the property of the perpetrator.

(4) By way of exception, in specially warranted cases under particularly extenuating circumstances, the body in charge of misdemeanour proceedings may decide that the cash in terms of Article 40 of this Act, as the subjects of the misdemeanours referred to in paragraph 1 of this Article, are not to be seized or to be seized only in part."

Article 13

In Article 70, after the words "seize the domestic and foreign cash" the words "or cash in terms of Article 40 of this Act" are added.

Article 14

Article 73 is deleted.

Article 15

In Article 75, the words "daily earnings" are replaced by the words "daily amounts".

Article 16

In Article 76, the words "daily earnings" are replaced by the words "daily amounts".

TRANSITIONAL AND FINAL PROVISIONS

Article 17

(1) As of the date of entry into force of this Act, the Decision on Medals and Tokens Similar to Euro Coins (Official Gazette 132/07 and 34/10) shall cease to have effect.

(2) The Decision on procedures for handling foreign cash suspected of being counterfeit (Official Gazette 21/07 and 34/10) shall remain in effect after entry into force of this Act, pending the adoption of a relevant bylaw based on a special law, and shall apply to all foreign cash except that denominated in euro.

(3) The Minister of Finance shall, within 90 days from the date of entry into force of this Act, issue a decree pursuant to Article 8 of this Act.

(4) The Decree on Keeping a Control Book on External Current and Capital Transactions (Official Gazette 145/03) shall apply accordingly until the entry into force of the decree referred to in paragraph (3) of this Article.

Article 18

(1) Any procedures for the issue and withdrawal of the authorisation to conduct exchange transactions not completed by the entry into force of this Act shall be subject to Articles 5 and 7 of this Act.

(2) The Croatian National Bank shall withdraw the authorisation to conduct exchange transactions from an authorised exchange office if it establishes, on the basis of the criminal records data and other sources, that the conditions referred to in Article 5 of this Act have not been met.

Article 19

This Act shall be published in the Official Gazette and shall enter into force on the date of accession of the Republic of Croatia to the European Union.