

(Unofficial translation)

ACT
ON THE AMENDMENTS TO THE FOREIGN EXCHANGE ACT
(Official Gazette 140/2005)

Article 1

In the Foreign Exchange Act (Official Gazette, No. 96/03), Article 46, paragraph 2 is amended to read as follows:

»(2) Exchange transactions may be conducted by residents authorised by the Croatian National Bank to conduct exchange transactions, using in their work a protected computer programme for exchange transactions, that have concluded an agreement on exchange transactions with a bank and are registered to conduct exchange transactions (authorised exchange offices).«

In paragraph 3, the full stop is deleted and the following words are added: »and issues and revokes authorisations to conduct exchange transactions.«

Article 2

After Article 46, added are Articles 46.a, 46.b and 46.c and the titles above them, which read as follows:

»Application for the Issue of the Authorisation to Conduct Exchange Transactions

Article 46.a

(1) An application for the issue of the authorisation to conduct exchange transactions shall be accompanied by:

1. the original or a certified copy of the certificate from the register of companies or the register of crafts,
2. a list of stakeholders or stockholders of the applicant – legal person, with their full names and places of residence and/or companies and head offices, the total nominal amounts of stakes or stocks and the percentage share in the equity capital of that legal person,
3. an agreement or preliminary agreement on exchange transactions concluded with a bank,
4. an agreement or preliminary agreement on the purchase of a protected computer programme for exchange transactions concluded with the producer whose programme has been certified by the Croatian National Bank and a certificate of authenticity by which the producer of the protected computer programme attests that the programme in question has been certified, and
5. a certificate showing that the owner of the craft business or a member of the management board of the legal person submitting the application has not been found guilty of a crime punishable under this Act or of a money laundering crime.

(2) If the applicant is a legal person, the documentation referred to in paragraph 1 of this Article must be accompanied by the following data on the founder of that legal person: the original or a certified copy of the certificate from the register of companies, a list of stakeholders or shareholders with their full names and places of residence and/or companies and head offices, the total nominal amounts of stakes or stocks and the percentage share in the equity capital of the founders of that legal person.

Deciding on the Application for the Issue of the Authorisation to Conduct Exchange Transactions

Article 46.b

(1) The Croatian National bank shall issue an authorisation to conduct exchange transactions if it establishes that the applicant fulfils the conditions required for the conduct of such operations.

(2) The Croatian National bank shall refuse the application for the issue of the authorisation to conduct exchange transactions:

1. if it establishes that the applicant does not fulfil the conditions required for the conduct of exchange transactions,

2. if the submitted documentation does not allow the establishment of the identity and place of residence and/or head office of stakeholders or stockholders of the applicant – legal person, the total nominal amounts of stakes or stocks of each individual holder and the percentage share of each individual holder in the equity capital of that legal person,

3. if the submitted documentation does not allow the establishment of the identity and place of residence and/or head office of stakeholders or stockholders of the applicant's founder – legal person, the total nominal amounts of stakes or stocks of each individual holder and the percentage share of each individual holder in the equity capital of the founder of that legal person, or

4. if the owner of the craft business or a member of the management board of the legal person submitting the application has been found guilty of a criminal offence punishable under this Act or of a money laundering crime.

(3) The Croatian National Bank shall adopt the decision on the application no later than within 90 days from the receipt of a valid application for the issue of the authorization to conduct exchange transactions. If the application is incomplete, the applicant may complete it by the required documentation or additional data within the time limit set by the Croatian National Bank, providing that the final time limit for the adoption of and notification on the decision may not exceed 180 days from the receipt of the application.

(4) A resident shall submit an application for the enrolment of exchange office operations in the register of companies or the register of crafts after receiving the authorisation to conduct exchange transactions.

Grounds for the Revocation of the Authorisation to Conduct Exchange Transactions

Article 46.c

The Croatian National Bank shall revoke the authorisation to conduct exchange transactions:

1. if the authorised exchange office does not begin conducting exchange transactions within 180 days from the date of authorisation,

2. if the authorised exchange office on its own initiative does not conduct exchange transactions for the period exceeding 180 days,

3. if the authorisation has been obtained on the basis of false documentation or information,

4. if, after the issue of the authorisation, circumstances or grounds arise due to which the authorised exchange office does no longer fulfil the conditions on the basis of which it has been issued the authorisation,

5. if the authorised exchange office does not allow the person authorised by the Foreign Exchange Inspectorate to conduct supervision, or

6. if the authorised exchange office, which has obtained the authorisation on the basis of a preliminary agreement on exchange transactions concluded with a bank or on the basis of a

preliminary agreement on the purchase of a protected computer programme for exchange transactions, within the time limit set in the authorisation of the Croatian National Bank, does not submit the agreement on exchange transactions concluded with a bank or a certificate of the producer of the protected computer programme attesting the authenticity of the purchased and installed programme.«

Article 3

In Article 49, paragraph 5, after the words «for the purpose of» the following words are added «controlling foreign exchange operations and».

After paragraph 5, added is paragraph 6, which reads as follows:

»(6) Residents covered by the obligation to report to the Croatian National Bank on capital transactions with non-residents shall, at the request of the Ministry of Finance – Foreign Exchange Inspectorate, submit data on actual owners of a non-resident with which they conclude transactions if the non-resident in question is an off-shore undertaking.«

Article 4

In Article 56, added is a new paragraph 2, which reads as follows:

»(2) The submission of data on a supervised person, which are required in supervisory procedures, shall not be considered a violation of the obligation to keep a business secret.«

The present paragraph 2 shall become paragraph 3.

Article 5

In Article 62, paragraph 1, item 1, after the word: «transactions» the following words are added: »without authorisation from the Croatian National Bank or«.

Article 6

In Article 63, paragraph 1, item 18, after the word: »documentation« the following words are added: »and data«.

Article 7

In Article 75, after the word: »transactions« the following words are added: »without authorisation from the Croatian National Bank or«.

Article 8

In Article 76, after the word: »transactions« the following words are added: »without authorisation from the Croatian National Bank or«.

TRANSITIONAL AND FINAL PROVISIONS

Time Limit for the Adjustment of Authorised Exchange Offices

Article 9

(1) Authorised exchange offices referred to in Article 46, paragraph 2 of the Foreign Exchange Act (Official Gazette, No. 96/03) that are on the day of entry into force of this Act registered to conduct exchange transactions and that conduct exchange transactions on the basis of an agreement concluded with a bank shall adjust their operations to the provisions of this Act within a year from its entry into force.

(2) Authorised exchange offices referred to in paragraph 1 of this Article that fail to adjust their operations to the provisions of this Act within the prescribed time limit shall be removed from the register of companies or the register of crafts on the basis of a decision of the Croatian National Bank.

Entry into Force of This Act

Article 10

This Act shall enter into force on the eighth day following its publication in the Official Gazette.

Class: 440-01/05-01/01
Zagreb, 17 November 2005

CROATIAN PARLIAMENT
President of the Croatian Parliament
Vladimir Šeks m.p.