

LAW OF THE REPUBLIC OF BELARUS

No. 226-Z dated July 22, 2003

ON FOREIGN EXCHANGE REGULATION AND FOREIGN EXCHANGE CONTROL

Adopted by the House of Representatives on June 25, 2003
Approved by the Council of the Republic on June 30, 2003

Article 3. Foreign Exchange Legislation of the Republic of Belarus and Norms of International Law

The Republic of Belarus recognizes the priority of generally accepted principles of international law and ensures that foreign exchange legislation of the Republic of Belarus complies therewith.

Legal norms contained in the treaties of the Republic of Belarus constitute part of foreign exchange legislation which is in force in the Republic of Belarus and are subject to direct application, except where it is evident from the treaty that application of such norms requires that an intrastate regulatory legal act is passed (issued).

CHAPTER 2. FOREIGN EXCHANGE OPERATIONS AND CONDUCT THEREOF

Article 4. Foreign Exchange Operations

Foreign exchange operations are:

- transactions providing for the use of foreign exchange, securities in foreign exchange, and payment documents in foreign exchange;
- transactions between residents and non-residents providing for the use of Belarusian rubles, securities in Belarusian rubles, and payment documents in Belarusian rubles;

- transactions between non-residents providing for the use of Belarusian rubles, securities in Belarusian rubles, and payment documents in Belarusian rubles which are conducted in the Republic of Belarus;
- importation and transfer to the Republic of Belarus as well as exportation and transfer from the Republic of Belarus of foreign exchange valuables;
- bank transfers in foreign currency which do not involve settlements of transactions specified in paragraph 2 of this part;
- bank transfers between residents and non-residents in Belarusian rubles which do not involve settlements of transactions specified in paragraph 3 of this part;
- international bank transfers in Belarusian rubles between residents and non-residents;
- non-residents' operations in Belarusian rubles involving accounts and deposits with banks and non-bank credit and financial institutions of the Republic of Belarus which do not entail the transfer of ownership of these Belarusian rubles; and
- operations in foreign exchange involving accounts and deposits with banks and non-bank credit and financial institutions of the Republic of Belarus, banks and other credit institutions abroad which do not entail the transfer of ownership of this foreign exchange.

Foreign exchange operations between residents and non-residents are classified into current foreign exchange operations and foreign exchange operations involving capital flow.

Article 5. Current Foreign Exchange Operations

Current foreign exchange operations are foreign exchange operations between residents and non-residents which provide for:

- settlements of transactions involving exports and/or imports of goods (with the exception of monetary funds, securities, and immovable property), protected information, exclusive rights to intellectual activity results, works, and services;

- settlements of transactions involving transfer and/or receipt of property under lease agreement (leasing);
- transfer and receipt of dividends and other income from investments; and
- operations of non-commercial character.

Article 6. Operations of Non-Commercial Character

Operations of non-commercial character include:

- transfer and receipt of monetary funds to pay salaries and wages, remuneration, stipends, pensions, alimonies, state benefits, additional payments and compensations, as well as indemnity against loss;
- transfers of monetary funds to cover travel expenses of employees abroad;
- transfer and receipt of monetary funds that make part of inheritance and monetary funds obtained from the realization of the inherited property;
- transfer and receipt of monetary funds related to the death of citizens, including allowances and financial assistance for burial, transport and other expenses;
- receipt of monetary compensations by victims of purges, members of their families, and heirs;
- transfers of monetary funds related to payments for the maintenance of diplomatic and other official missions and consular offices of the Republic of Belarus abroad;
- receipt of monetary funds by courts, an international arbitral tribunal, law enforcement bodies, state notarial offices, and notarial bureaus related to their activities and also by state bodies or other organizations when their officials perform notary acts;
- transfer and receipt of monetary funds on the basis of court rulings and other procedural documents;
- transfers related to the payment of registration, admission, and membership fees to social, religious, and international organizations, and also making

other compulsory payments in connection with participation in international organizations;

- transfer and receipt of Belarusian rubles and foreign exchange as well as transfer and receipt of other foreign exchange valuables under deeds of gift (including in the form of donations) and contracts on providing a grant (sponsorship) in compliance with legislation of the Republic of Belarus;
- receipt by residents of foreign exchange valuables from non-residents for safe-keeping;
- transfers related to payment of taxes, dues (duties), and other compulsory payments prescribed by legislation of the Republic of Belarus or legislation of foreign states as well as repayment thereof;
- transfers related to payment of duties and other payments to patent authorities;
- transfer and receipt of monetary funds related to participation in conferences, seminars, sport events, exhibitions, and fairs;
- transfers related to rebate of monetary funds paid by mistake and/or in excess; and
- other operations whose list is set by the President of the Republic of Belarus or, on his instructions, by the Council of Ministers of the Republic of Belarus, and also by treaties of the Republic of Belarus.

Article 7. Foreign Exchange Operations Involving Capital Flow

Foreign exchange operations involving capital flow are foreign exchange operations between residents and non-residents which do not pertain to current operations.

Article 8. Conduct of Foreign Exchange Operations by Banks and Non-Bank Credit and Financial Institutions

Banks and non-bank credit and financial institutions conduct:

- foreign exchange operations, which are bank operations, on the basis of special permits (licenses) for banking issued by the National Bank of the Republic of Belarus (hereinafter the "National Bank"); and
- foreign exchange operations, which are not bank operations, in the manner provided by legislation for other resident legal persons.

Article 9. Settlements of Foreign Exchange Operations

Settlements of foreign exchange operations between legal persons, between legal persons and independent entrepreneurs, and also between independent entrepreneurs are carried out in cashless form except for the cases provided for by legislative acts of the Republic of Belarus and/or regulatory legal acts of the National Bank.

Settlements of foreign exchange operations involving natural persons which are not associated with their involvement in entrepreneurial activity may be carried out in cash or in cashless form in the manner prescribed by the legislation.

Article 10. Conduct of Current Foreign Exchange Operations and Foreign Exchange Operations Involving Capital Flow

Current foreign exchange operations are carried out between residents and non-residents in the manner prescribed by legislative acts of the Republic of Belarus and/or regulatory legal acts of the National Bank without any restrictions.

Residents carry out foreign exchange operations involving capital flow on the basis of permits (licenses) of the National Bank, unless otherwise established by this Law or determined by the President of the Republic of Belarus. Non-residents do not require permits (licenses) of the National Bank for said foreign exchange operations.

The National Bank's permit (license) for carrying out foreign exchange operations involving capital flow by resident natural persons (except for natural persons acting as independent entrepreneurs in the course of these operations and natural persons referred to in part four of this Article) is required only in case of:

- acquisition of equities when they are distributed among the promoters as well as acquisition of a stake in the authorized capital or a share in the property of a non-resident;
- acquisition of securities issued by non-residents from a non-resident, except for acquisition of equities when they are distributed among the promoters;
- acquisition of ownership of the property located abroad and recognized by legislation of the Republic of Belarus as immovable property;
- placement of monetary funds with banks and other credit institutions of foreign countries;
- granting loans for the term exceeding 180 days; and
- transfer of monetary funds under transactions involving trust management of foreign exchange valuables.

Resident natural persons who continuously reside (stay) abroad for more than one year require no permits (licenses) of the National Bank for carrying out foreign exchange operations involving capital flow if the conduct of such operations is not associated with their involvement in entrepreneurial activity in the Republic of Belarus;

Resident legal persons and independent entrepreneurs require no permits (licenses) of the National Bank for carrying out the following foreign exchange operations involving capital flow:

- payments to non-residents under obligations providing for the transfer of the property located in the Republic of Belarus and recognized by legislation of the Republic of Belarus as immovable property or rights thereto to a resident;
- sale of a stake in the authorized capital or a share in the property of a resident to a non-resident;
- conduct of operations in securities issued by residents;
- setting up the authorized capital of a resident legal person at the expense of non-residents' contributions in foreign exchange, Belarusian rubles, or securities in foreign exchange and in Belarusian rubles in the manner prescribed by legislation of the Republic of Belarus;

- attraction of funds to cover the republican budget deficit and repayment of these funds pursuant to the law on the republican budget for the next financial year;
- attraction of funds against guarantees of the Government of the Republic of Belarus and repayment thereof;
- attraction of funds under intergovernmental agreements and repayment thereof;
- effecting other payments with a view to repaying and servicing the external public debt of the Republic of Belarus which are not referred to in paragraphs from 6 through 8 of this part;
- conduct of operations in respect of which the National Bank has set a notification-based and/or registration-based procedure for carrying them out;
- making transfers of monetary funds related to the purchase of bidding (tender) documents and participation in biddings (bids, tenders, and auctions); and
- receiving credits and/or loans by banks and non-bank credit and financial institutions.

The National Bank sets procedures for settling current foreign exchange operations and foreign exchange operations involving capital flow.

Article 11. Use of Foreign Exchange, Securities in Foreign Exchange, and Payment Documents in Foreign Exchange when Carrying out Foreign Exchange Operations between Residents

Except in cases provided by this Law and other acts of foreign exchange legislation, the use of foreign exchange, securities in foreign exchange, and payment documents in foreign exchange when carrying out foreign exchange operations between residents is prohibited.

Foreign exchange, securities in foreign exchange, and payment documents in foreign exchange may be used in relations between resident natural persons who do not act, when carrying out foreign exchange operations, in the capacity of independent entrepreneurs in cases where:

- grants (including donations) are made as well as cancelled;

- loans are granted and loans and interest thereon are repaid; and
- they are placed in custody and returned.

Article 12. Foreign Exchange Operations and Procedures for Conducting Thereof

Foreign exchange operations include:

- operations involving the exchange of foreign currency for Belarusian rubles and/or exchange of Belarusian rubles for foreign currency at set exchange rates (foreign currency purchase/sale);
- operations involving the exchange of one kind of foreign currency for another at set exchange rates (foreign currency conversion); and
- other operations set forth by the National Bank.

Foreign exchange operations in the Republic of Belarus are conducted through banks and non-bank credit and financial institutions that have received special permits (licenses) for banking.

Foreign exchange operations involving natural persons are conducted without registration of details of the identification document that proves the identity of these persons unless otherwise provided for by legislative acts of the Republic of Belarus on preventing money laundering and terrorism financing.

Foreign currency may be purchased and sold and/or converted at currency exchanges and in the OTC foreign exchange market.

The National Bank may impose a ceiling on exchange rates at which foreign currency is purchased and sold and/or converted in the domestic foreign exchange market of the Republic of Belarus.

Procedures for carrying out foreign exchange operations as well as conditions for categorizing them as operations conducted in the domestic foreign exchange market are set by the National Bank.

Article 13. Mandatory Sale of Foreign Currency

Mandatory sale of foreign currency in the domestic foreign exchange market of the Republic of Belarus is accomplished by resident legal persons and resident independent entrepreneurs. Cases and the size of mandatory sale of foreign currency as well as cases of full or partial exemption of legal persons and independent entrepreneurs from mandatory sale of foreign currency are determined by the President of the Republic of Belarus.

Procedures for mandatory sale of foreign currency are set by the President of the Republic of Belarus and, in cases determined by him, by other state authorities.

Article 14. Importation, Exportation, and Transfer of Foreign Exchange, Certificated Securities in Foreign Exchange, and Payment Documents in Foreign Exchange by National Persons

Importation of foreign exchange, certificated securities in foreign exchange, and payment documents in foreign exchange by national persons to the Republic of Belarus is carried out without any restrictions, provided customs legislation requirements are complied with.

Natural persons may export earlier imported foreign exchange, certificated securities in foreign exchange, and payment documents in foreign exchange from the Republic of Belarus, provided customs legislation requirements are complied with, in the amount indicated in the customs declaration or any other document substantiating their import into the Republic of Belarus.

Foreign exchange, certificated securities in foreign exchange, and payment documents in foreign exchange are exported from the Republic of Belarus by natural persons in the manner prescribed by the National Bank in concert with the State Customs Committee of the Republic of Belarus (hereinafter the "State Customs Committee"), except in cases referred to in part two of this Article.

Procedures for transferring foreign exchange, certificated securities in foreign exchange, and payment documents in foreign exchange by natural persons to the Republic of Belarus and from the Republic of Belarus are

established by the National Bank in concert with the State Customs Committee.

Article 15. Importation, Exportation, and Transfer of Belarusian Rubles, Certificated Securities in Belarusian Rubles, and Payment Documents in Belarusian Rubles by National Persons

Importation of Belarusian rubles, certificated securities in Belarusian rubles, and payment documents in Belarusian rubles to the Republic of Belarus and exportation thereof from the Republic of Belarus are carried out by national persons in the manner prescribed by the National Bank in concert with the State Customs Committee.

Procedures for transferring Belarusian rubles, certificated securities in Belarusian rubles, and payment documents in Belarusian rubles by natural persons to the Republic of Belarus and from the Republic of Belarus are established by the National Bank in concert with the State Customs Committee.

Article 16. Settlements between Non-Residents in Belarusian Rubles and/or Foreign Exchange in the Republic of Belarus

Settlements between non-residents in Belarusian rubles and/or foreign exchange involving accounts opened with banks and non-bank credit and financial institutions of the Republic of Belarus are effected without restrictions, unless this runs contrary to the non-residents' account regimes provided by regulatory legal acts of the National Bank.

Any foreign exchange in respect of which the National Bank has set the official exchange rate of the Belarusian ruble may be used in settlements between non-residents involving accounts opened with banks and non-bank credit and financial institutions of the Republic of Belarus.

Article 17. Transactions Involving Securities in Belarusian Rubles and Securities in Foreign Exchange between Non-Residents in the Republic of Belarus

Transactions involving securities in Belarusian rubles and securities in foreign exchange between non-residents are conducted in the Republic of Belarus without restrictions, unless otherwise provided by legislative acts of the Republic of Belarus.

CHAPTER 3

OPENING OF ACCOUNTS BY RESIDENTS AND NON-RESIDENTS

Article 18. Residents' and Non-Residents' Accounts in the Republic of Belarus

Residents and non-residents may open, at banks and non-bank credit and financial institutions of the Republic of Belarus, accounts in Belarusian rubles and any other foreign exchange in respect of which the National Bank has set, in the manner determined thereby, the official exchange rate of the Belarusian ruble.

Article 19. Residents' Accounts outside the Republic of Belarus

Residents may open accounts in foreign exchange and in Belarusian rubles with banks and other credit institutions outside the Republic of Belarus, provided that procedures and conditions prescribed by the National Bank are complied with and provisions specified by part 2 of this Article are taken into consideration.

No permits (licenses) of the National Bank are required to open accounts with banks and other credit institutions outside the Republic of Belarus by resident natural persons while they are residing (staying) outside the Republic of Belarus.