

# CURRENCY REGULATIONS

## ***Applicable legislation in this field***

- National Bank of Romania Regulation no. 3/1997 on the performing of the currency operations, published in the Official Gazette no. 395/31<sup>st</sup> of December 1997;
- Circular letter no. 37/2002 for the amendment and supplementing the National Bank of Romania Regulation no. 3/1997 on the performing of the currency operations, as further amended and supplemented, and of the National Bank of Romania Circular Letter no. 22/1999, published in the Official Gazette no. 700 / 25<sup>th</sup> of September 2002;
- National Bank of Romania Norm no. 17/2002 on the statistical report with the National Bank of Romania of the currency operations and of capital of the nature of the external private debt on long and medium term, published in the Official Gazette no. 7000/25<sup>th</sup> of September 2002.

## ***I. Currency operations***

Currency operations are represented by the receipts, payments, compensations, transfers, creditings, as well as any other transactions expressed in currencies and which may be performed by bank transfer, in cash, with payment instruments or in other modalities of payment agreed or accepted by the banks. Operations expressed in national currency (leu) when they are performed between residents and non-residents, range among these categories.

Currency operations may be: current and of capital, as defined by the Art.1 point 1.17.1 and 1.17.2 from the Regulation no. 3/1997.

- ***Residents, legal persons are:*** public agencies, regies autonomes, trade companies, associations, clubs, leagues and any other legal persons with lucrative or non-profit nature registered or authorized to perform activities in Romania; natural persons performing economic activities independently and family associations authorized according to the provisions

of the Law no. 507/2002 on organization and development of certain economic activities by natural persons, branches, subsidiaries, representations, agencies and offices, registered and/or authorized to perform activities in Romania, of the foreign legal persons; embassies, consulates or other representations of Romania abroad; branches, subsidiaries, representations, agencies and offices of Romanian firms performing activities and that are not registered abroad as legal persons;

- ***Residents natural persons are:*** natural persons, Romanian citizens with residence in Romania, proved with an identity document issued by the bodies competent by law, natural persons of another citizenship and natural persons without citizenship (stateless), with residence in Romania, proved with an identity document issued by the bodies competent by law;
- ***Non-resident legal persons are:*** legal persons with headquarters abroad, which are not registered and/or authorized to develop activities in Romania; embassies, consulates or other representations of Romania abroad as well as international organizations or the representations of such organizations functioning in Romania; branches, subsidiaries, representations, agencies and offices of the Romanian legal persons developing activities and being registered abroad as legal persons;
- ***Non-resident natural persons:*** natural persons, foreign citizens, working within the embassies, consulates or other representations of other countries in Romania or within certain international organizations or their representations functioning in Romania; natural persons, foreign citizens as well as persons without citizenship (stateless) with residence abroad; natural persons, Romanian citizens with residence abroad.

## ***II. Regime for authorization of the currency operations***

Residents may perform freely and without restrictions current currency operations.

The following capital operations are subject to prior authorization from the National Bank of Romania, if they are not of the nature of the external public debt:

- admission of transferable securities and of the units of the foreign collective investment bodies – CIB on Romanian capital market – shall no longer be subjected to authorization from the 1<sup>st</sup> of January 2004;
- operations with transferable securities and with other instruments currently subject to transaction on the monetary market – the decision for them no longer be subjected to authorization shall be taken on the date of the adhering to European Union at the latest;
- operations with current accounts and of deposit opened by residents abroad - the decision for them no longer be subjected to authorization shall be taken on the date of the adhering to European Union at the latest;
- operations on deposit accounts in lei opened by non-residents in Romania – shall no longer be subjected to authorization from the 1<sup>st</sup> of January 2004;
- import and export of financial assets – payment instruments under the cash form - shall no longer be subjected to authorization from the 1<sup>st</sup> of January 2004.

Banks are an exception from the authorization provisions for the following capital operations performed in personal name and on its account:

- transactions with transferable securities and other instruments on the monetary market;
- granting of guarantees, less guarantees granted in the favor of the non-residents in cases not connected directly to the international commerce or of international capital movements or in which no resident participates in the guaranteed basic operation;
- operations in current accounts and of deposit in currency, opened abroad;
- short term credits and financial loans.

**From the 1<sup>st</sup> of January 2004** the following operations of capital are no longer subject of authorization:

- a) admission of transferable securities and of the foreign collective investment bodies – CIB on the Romanian capital market;

- b) operations in deposit accounts in lei opened by non-residents in Romania;
- c) import and export of financial assets – payment instruments in the form of cash.

### ***III. Currency operations performed on the Romanian territory***

The receipts and payments between residents on the Romanian territory are performed in national currency (lei). The following categories of residents authorized by regulation to perform currency operations on the Romanian territory are an exception from those above stipulated:

- banks – for currency operations provided in the authorization of functioning;
- legal persons – making payments in currency deriving from foreign trade contracts (export, import of goods), on the basis of the commission contracts between the commissionaire and the principal and of the respective foreign trade contracts;
- natural and legal persons – for the currency operations representing fees or deriving from acts of commerce developed in free zones, ports, airports, state borders, international trains, on board of aircrafts and ships, on external courses;
- natural and legal persons – benefiting from express legal provisions giving them the right to make currency operations on the Romanian territory;
- natural persons – for currency operations among them, with incidental character;
- legal persons – for currency operations deriving from organization or performing of works and / or external services, like international transport of goods and persons, international tourism.

### ***IV. Owning and using currency assets***

Residents have the right to buy and sell freely amounts in currency against lei on the currency market from Romania, through authorized agents. Resident legal persons, for operations of purchasing of currency, have the obligation to prove with documents the nature of the currency operation and the requested amount. Residents may perform freely and with no restrictions current currency operations.

In Romania, non-residents may acquire, own and use payment instruments, transferable securities as well as any other assets expressed in lei, according to law, regulation and norms issued in their enforcement.

### **1. Repatriation obligation**

Residents are obliged to transfer or to repatriate in convertible currency and/or national currency all the amounts obtained from operations abroad, less the fees, commissions and other afferent expenditures (according to international bank usages).

For this purpose, residents shall make all necessary steps for the conversion in convertible currency or in national currency of the amounts obtained in other currencies.

The followings are an exception from the repatriation obligation:

- banks – for the activities developed on the basis of the functioning authorization;
- residents – legal persons authorized by the National Bank of Romania to own currency accounts abroad;
- residents – natural persons making incomes in currency abroad.

### **2. Opening of accounts in currency and/or in national currency abroad by residents**

Residents may open and maintain accounts in foreign currency and/or national currency abroad only subject to prior authorization of the National Bank of Romania. The authorization from the National Bank of Romania shall be issued according to the provisions from the Norms regarding the authorization of opening and functioning of accounts abroad of the residents – N.R.V.5.

The following categories of residents are an exception from the obligation of obtaining the authorization from the National Bank of Romania:

- banks – for the activity developed on the basis of the functioning authorization;
- representations, agencies, offices of the Romanian legal persons not registered as legal persons abroad – for the current expenses necessary for the development of their activity;
- embassies, consulates or other representations of Romania abroad;
- residents – natural persons and legal persons owning real estates;
- residents – natural persons during their staying abroad;

- residents – for the amounts in currency whose repatriation is temporary obstructed on the basis of certain legal provisions in force in that country.

The opening and functioning of accounts abroad may be authorized for the following situations:

- organizing and functioning of building assemblage sites and plants abroad or execution of works and performing of services abroad;
- capital currency operations;
- owning and using currency available funds abroad – for which the applicant brings proofs that they cannot be performed according to the currency provisions in force;
- litigations between the residents shown above and non-residents, under settling or settled, as well as regularizations with the financial / judicial authorities from the respective countries;
- setting up and functioning, subject to observance of the requirements of the Romanian legislation, of branches and subsidiaries of the residents, which are not set up as legal persons abroad.

Authorization for opening and functioning of accounts abroad comprises the functioning conditions of the respective account, compulsory for its entire period of validity.

Holder of the authorization has the obligation to communicate to National Bank of Romania any modification of the initial conditions for authorization and functioning of the account, for the purpose of its modification.

Authorizations are issued for a period of maximum one year, after which they shall be renewed on the basis of the documentation presented with 30 days before the expiration date.

Banks shall not perform currency operations in the banking account abroad of the residents non-authorized by National Bank of Romania.

### **3. Amounts in actual currency that may enter Romania**

Natural persons may enter the country with amounts in actual currency in equivalent of maximum 10,000 USD / person / travel, being obliged to declare to the Romanian customs authorities the amounts in actual currency they have with them, exceeding the threshold of those 10,000 USD.

The amounts in actual currency (cash) exceeding the threshold of 10,000 USD are filed with the customs bodies from the Romanian border. For these amounts, the customs body draws up a registering receipt. Customs bodies issue the amounts registered in the state borders.

The maximum term for the releasing of the amounts registered by the customs bodies is of three years from the depositing date. The releasing of the registered amounts is made, on the basis of the depositor's request, upon leaving the country and with the retaining from him of the original of the registering receipt. After this term, the respective amounts are going to be income to the state budget.

Natural persons may leave the country with amounts in actual currency (cash) equivalent with maximum 10,000 USD / person / travel.

When leaving the country, natural persons are obliged to declare to the Romanian customs bodies the amounts in actual currency exceeding those 10,000 USD and to deposit them with the customs bodies that shall draw up registering receipts on the holder's name. The amounts are going to be released when they return to the country.

The amounts non-collected within 3 years become income to the state budget.

#### **4. Introduction and removing of amounts in lei in / from Romania**

Natural persons cannot introduce or remove in / from Romania actual amounts (cash) exceeding lei 500,000 / person / travel, except natural person resident in Republic of Moldavia or in Romania that may remove or introduce from / in Romanian when traveling between the two countries amounts in cash up to maximum lei 4,000,000 / person / travel.

On the introduction / removal in/from Romania banknotes and coins are allowed, regardless their nominal value.

When leaving Romania, natural persons aforementioned have the obligation of declaring, upon customs bodies' request, amounts in lei exceeding the threshold of lei 500,000, respectively lei 4,000,000 / person / travel and to deposit them with the customs bodies that shall draw up registering receipt.

The depositors, Romanian or foreign citizens, are reimbursed with these amounts when returning from their trip, respectively with the occasion of a new trip to Romania.

The maximum term for restitution is of 3 years. After the expiration of this term, the said amounts become income to the state budget.

## **5. Opening of accounts in lei for the non-residents**

Non-residents may open current accounts with banks in national currency (leu) (accounts type A and accounts type B – having interest at sight):

Accounts type A – in these accounts the followings may be performed:

- receipts from: sales of amounts in currency against lei, current currency operations with residents, transfers from account type B, discounted interests at the available funds in the accounts type A and B;
- payments for: current currency operations with residents; purchasing of currency; transfers in accounts type B.

Accounts type B – in these accounts the followings may be performed:

- receipts from: sales of currency against lei; capital currency operations; capital currency operations authorized by National Bank of Romania; transfers from account type A;
- payments for: capital currency operations; capital currency operations authorized by National Bank of Romania; purchasing currency against lei; transfers from account type A.

Non-residents may transfer amounts among two accounts, subject to observance of those shown above regarding the receipts and payments from these accounts.

The amounts in lei held by non-residents in accounts type A and B may be converted into currency through the currency market.