



DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA
MERCHANT SHIPPING SECRETARIAT
MINISTRY OF PORTS AND SHIPPING

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MSN 01/2022

03 January 2022

Notice to: All licensed Shipping Agents, Freight Forwarders, and Container Depot Operators & NVOCC Operators

DIRECTIONS NO. 05 OF 2021 UNDER THE FOREIGN EXCHANGE ACT, NO. 12 OF 2017

1. Purpose

The aim of this notice is to draw the attention of all parties regarding the Directions issued to Authorized Dealers on Business Foreign Currency Accounts by the Department of Foreign Exchange, Central Bank of Sri Lanka.

2. Requirement

In terms of the Foreign Exchange (Opening and Maintenance of Accounts for the purpose of engaging in Foreign Exchange Transactions) Regulations No. 05 of 2021 and Section 9 of the Foreign Exchange Act, No. 12 of 2017 (the FEA) read with Sections 5, 6, 7 and 8 of the FEA, Authorized Dealers (ADs) are permitted to open and maintain Business Foreign Currency Accounts (BFCA), subject to certain conditions.

As per the section 1.2 (d) of the Directions, *‘ADs shall not credit BFCAs with charges and deposits that are collected as local fees or charges which are not components of freight, where the account holder is a shipping agent or General Sales Agent (GSA) licensed by the Director General of Merchant Shipping’.*

4. Attachment

- Directions No. 05 of 2021 under the Foreign Exchange Act, No. 12 Of 2017

Issued on 03 January 2022

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**DEPARTMENT OF FOREIGN EXCHANGE
CENTRAL BANK OF SRI LANKA**

DIRECTIONS No. 05 OF 2021 UNDER FOREIGN EXCHANGE ACT, No. 12 of 2017

Directions issued to Authorized Dealers on Business Foreign Currency Accounts (BFCAs)

In terms of the Foreign Exchange (Opening and Maintenance of Accounts for the purpose of engaging in Foreign Exchange Transactions) Regulations No. 05 of 2021 and Section 9 of the Foreign Exchange Act, No. 12 of 2017 (the FEA) read with Sections 5,6,7 and 8 of the FEA, Authorized Dealers (ADs) are permitted to open and maintain BFCAs, subject to the following.

1.1 Eligible Persons

- (a) The following persons resident in Sri Lanka who earn foreign exchange from a resident outside Sri Lanka: -
- (i) An individual resident in Sri Lanka;
 - (ii) A sole proprietorship or partnership registered in Sri Lanka where the proprietor or majority of partners are residents in Sri Lanka (in case of a partnership with two partners, at least one partner shall be a resident in Sri Lanka);
 - (iii) A company incorporated in Sri Lanka;
 - (iv) A company incorporated outside Sri Lanka which is registered as an overseas company under the Companies Act No. 7 of 2007;
 - (v) A State Institution with the recommendation of the Secretary to the relevant line Ministry or appropriate Authority;
 - (vi) An administrator or executor of the estate of a deceased person, who maintained a BFCA with an AD, until the completion of the administration of the deceased persons estate; and
 - (vii) A receiver or liquidator, of a company that maintained a BFCA with an AD, until proceedings are concluded.
- (b) A Non-Governmental Organization shall not be permitted to open and maintain a BFCA.

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1.2 Opening and Maintaining the Accounts

- (a) BFCAs may be opened and maintained as savings, current or term deposit accounts in any designated foreign currency in the domestic banking unit.
- (b) ADs shall obtain documentary evidence including the authorization by the relevant authority/ies, if any, at the time of opening a BFCA to determine the applicant's eligibility to open and maintain a BFCA in respect of earnings in foreign exchange from a person resident outside Sri Lanka.
- (c) A BFCA shall not be overdrawn, except by way of an overdraft facility granted under the Directions No. 09 of 2021 dated 18 March 2021 on Accommodations to BFCA holders.
- (d) ADs shall not credit BFCAs with charges and deposits that are collected as local fees or charges which are not components of freight, where the account holder is a shipping agent or General Sales Agent (GSA) licensed by the Director General of Merchant Shipping or Director General of Civil Aviation Authority of Sri Lanka, respectively.
- (e) Under any circumstance Sri Lanka Rupees shall not be converted into foreign currency and be credited into a BFCA.

1.3 Permitted Credits

- (a) remittances received in foreign exchange from abroad through the banking system in respect of, export of goods and services, entrepot trade, overseas projects undertaken by the account holder and goods and services supplied locally to a person resident outside Sri Lanka;
- (b) foreign exchange accepted by the account holder in Sri Lanka in respect of goods and services supplied by such person to a person resident outside Sri Lanka;
- (c) foreign exchange brought into Sri Lanka by the account holder on a declaration to Department of Customs where such foreign exchange exceeds USD 15,000 or its equivalent in other foreign currencies or an appropriate declaration to the AD where such foreign exchange is less than or equals USD 15,000 or its equivalent in other foreign currencies;
- (d) transfers from a Personal Foreign Currency Account (PFCA), BFCA or an account maintained in the Offshore Banking Unit (OBU) of the same account holder;
- (e) transfers from an account maintained in the OBU of a person resident outside Sri Lanka

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in respect of a current transaction;

- (f) where account holder is a local shipping/ airline company; transfers from PFCA of a citizen of Sri Lanka working abroad (employee) in vessels/ aircrafts owned by the account holder being overpayment of crew salaries/ wages and other related payments due from such employee;
- (g) transfers from a Diplomatic Foreign Currency Account of a person resident outside Sri Lanka, in respect of supply of goods and services;
- (h) where account holder is a shipping agent or a GSA in Sri Lanka; remittances received in foreign exchange through the banking system from the respective foreign principal or from a designated third party on behalf of the foreign principal for the purposes under the respective agency agreements;
- (i) where account holder is a shipping agent or a GSA in Sri Lanka; freight and passenger fares collected in foreign exchange by the agent on behalf of the foreign principal, by way of a bank transfer or bank draft issued by an AD in Sri Lanka against a BFCA or an account maintained in the OBU;
- (j) where account holder is a company incorporated in Sri Lanka which has arrangements with an overseas employer for disbursement of wages and/or earnings to Sri Lankan citizens who are rendering services outside Sri Lanka; remittances received in foreign exchange from abroad through the banking system from the respective overseas employers or transfers from an account maintained in the OBU of such overseas employer;
- (k) payments received in foreign exchange by the account holder who is carrying permitted business under duty-free concessions, being consideration for goods or services supplied to passengers (irrespective of the residential status) arriving in or departing from Sri Lanka at a port or airport in Sri Lanka;
- (l) any income or capital proceeds of any foreign asset of the account holder, where such asset had been acquired by debiting the BFCA;
- (m) transfers from an Outward Investment Account (OIA) being any income or capital proceeds received from outward investments, where such investments had been made by debiting the BFCA of the same account holder or by utilizing the funds transferred to an OIA from the BFCA of the same account holder, proportionately to the contributions;

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- (n) transfers from an OIA of another person (i.e. buyer) being proceeds from sale of a permitted investment in overseas to such buyer, where the original investment had been made by debiting the same BFCA of the account holder;
- (o) coupon income, sale/ maturity proceeds and any other related receipts arising from investments made in Sri Lanka Development Bonds (SLDBs) in foreign currency, if the original investment in SLDBs had been made by debiting the BFCA of the account holder;
- (p) unutilized foreign currency obtained by the account holder debiting the BFCA in terms of the items (e), (f) and (g) of paragraph 1.4 of these Directions;
- (q) unutilized balance remaining in the Foreign Travel Card (FTC) of the account holder, up to the amount such FTC had been funded from the same BFCA of the account holder;
- (r) where account holder is an Insurance company regulated by the Insurance Regulatory Commission of Sri Lanka (IRCSL); insurance premia received on foreign currency denominated insurance policies issued to eligible customers and co-insurers and claims received from re-insurers and National Insurance Trust Fund (NITF);
- (s) where account holder is an employer; transfers from a PFCA of a non-national or a dual citizen employed in Sri Lanka (i.e. employee) being overpayment of salaries, employment and retirement benefits or any other payment due from such employee;
- (t) where account holder is a property developer; transfer of funds from an Inward Investment Account (IIA) of a person resident outside Sri Lanka (i.e. investor) being payments received from sale of immovable property to such investor;
- (u) where account holder is a property developer; transfer of funds from a Foreign Currency Loan Account (FCLA) being payments received from a Sri Lankan resident outside Sri Lanka on Permanent Residency visa in another country or a dual citizen, as permitted by the Directions No. 11 of 2021 dated 18 March 2021;
- (v) remittances originating outside Sri Lanka from the account holder in terms of Section 8(3) of the FEA;
- (w) transfers from other BFCAs or accounts maintained in the OBU in respect of supply of goods and services by the account holder being a category of persons listed in **Annex I**; and
- (x) interest earned in foreign currency on the funds held in the account.

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1.4 Permitted Debits

- (a) any outward remittances made outside Sri Lanka in respect of current transactions and capital transactions of the account holder;
- (b) disbursements in Sri Lanka in Sri Lanka Rupees;
- (c) transfers to a PFCA, BFCA or an account maintained in the OBU of the same account holder;
- (d) transfers to an account maintained in the OBU of a person resident outside Sri Lanka in respect of a current transaction;
- (e) withdrawal in foreign currency notes up to USD 5,000 (or equivalent in any other foreign currency) or transfer of funds for uploading an FTC for travel purpose of the account holder in terms of the Directions No. 02 of 2021 dated 18 March 2021 on Current transactions;
- (f) withdrawal in foreign currency notes up to USD 50,000 (or equivalent in any other foreign currency) at a time by Gem and jewelry dealers for the purpose of purchasing cut and polished or rough gemstones and other raw materials abroad upon submission of confirmation obtained from the National Gem and Jewelry Authority;
- (g) where account holder is a shipping agent or a GSA in Sri Lanka; withdrawal in foreign currency notes up to USD 50,000 (or equivalent in any other foreign currency) per vessel per call as Cash-to-Masters, against inward remittance received from the foreign principal or from designated third parties on behalf of the foreign principal, on a request with the reasons acceptable to the AD;
- (h) transfers to External Commercial Borrowing Account (ECBA) of the same account holder (i.e. borrower) for the purpose of repayment/ service of a foreign currency loan obtained from a lender in overseas;
- (i) debt servicing expenses and repayment of foreign currency accommodations obtained by the account holder from an AD including transfer of funds to a BFCA Loan Account;
- (j) transfers to an IIA of a lender in overseas, being repayment of foreign currency loans obtained from such lender during the period from 20 November 2017 to the date of these Directions by the account holder (i.e. borrower);

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- (k) transfers in respect of making investments in SLDBs in foreign currency utilizing funds in the BFCA of the account holder;
- (l) transfers to an OIA of another person (i.e. seller) being payments for purchase of a permitted investment in overseas which have been made by the seller through the same OIA;
- (m) where account holder is an Insurance company registered with the IRC SL; payments of claims to eligible customers and co-insurers in respect of foreign currency denominated policies, premia to local or overseas re-insurers and NITF and brokerage charges;
- (n) where account holder is an investee, tenant, lessee or a buyer, transfers to an IIA being payments of any income or capital proceeds attributed to capital transactions in Sri Lanka of such holder of the IIA, as permitted under the Regulations and Directions issued under the FEA applicable for IIAs;
- (o) where account holder is a company incorporated in Sri Lanka which has arrangements with an overseas employer for disbursement of wages and/ or earnings to Sri Lankan citizens who are rendering services outside Sri Lanka; transfers to PFCAs or Sri Lanka Rupee accounts of the respective employees;
- (p) where account holder is local shipping/ airline company; transfers to PFCAs of Sri Lankan citizens working abroad in the vessels/ aircrafts owned by such shipping/ airline company being payment of crew salaries/ wages and other related employment benefits;
- (q) transfers to other BFCAs or accounts maintained in the OBU in respect of purchase of goods and obtaining services by the account holder being a category of persons listed in **Annex I**; and
- (r) outward remittance of funds for any purpose of the account holder being an individual, where such funds have been remitted to Sri Lanka in terms of the Section 8 (3) of the FEA.

1.5 Other Conditions

- (a) ADs shall require to obtain a written confirmation on payments received in respect of goods sold and services rendered by the account holder to a person resident outside Sri Lanka where payments for such goods and services have been made through an

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Electronic Data Capture Terminal or Internet Payment Gateway (EDC/IPG), by using an Electronic Fund Transfer Card (EFTC) issued outside Sri Lanka, provided that the AD shall credit such payment into a BFCA only upon written confirmation by the EDC /IPG provider stating that it contains payments made using an EFTC issued outside Sri Lanka.

- (b) where account holder is a shipping agent or a GSA in Sri Lanka, repatriation of surplus funds to the foreign principal shall only be permitted, only upon a written confirmation obtained from the account holder (i.e. agent) to the effect that adequate funds have been retained in the BFCA, to meet all local liabilities of the foreign principal in Sri Lanka including tax payable to the Government and the agency commission.
- (c) where account holder is a company incorporated or registered in Sri Lanka; ADs may issue foreign currency notes up to a maximum of USD 5,000 (or equivalent in other foreign currency) per individual (being an employee of such company) for the purpose of travelling abroad of such employee by debiting the BFCA of the account holder (employer), subject to the Directions No. 02 of 2021 dated 18 March 2021 on Current transactions.
- (d) where account holder is a property developer (i.e., seller), funds credited to the BFCA in terms of item (t) of Paragraph 1.3 of these Directions may be held as collateral/ security by the AD for the issuance of a Bank Guarantee or a Standby Letter of Credit favoring the purchaser of the property who is a resident outside Sri Lanka on behalf of the seller, subject to the terms and conditions specified in the Directions No. 20 of 2021 dated 18 March 2021 on Issuance and Renewal of Guarantees.

2. Reporting Requirement

- (a) ADs shall submit a report as per the **Annex II** on a monthly basis to this department on or before the 15th day of the following month by email to **dfem@cbsl.lk**.
- (b) ADs are required to implement a system within the bank in order to generate or extract the relevant information from the books of accounts of their respective banks, as per the above reporting requirement.

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3. ADs shall require prior permission of the Director-Department of Foreign Exchange, for any transaction or transfer to/ from BFCAs for any purpose which falls outside the purview of these Directions.
4. **For the purpose of these Directions;**
- (a) **“Remittances”** shall include telegraphic transfers, other interbank transfers, bank drafts, other payment instruments, payments received via other internationally accepted payment mechanisms or platforms and funds received from exchange companies/houses in foreign currency from abroad, other than currency notes;
 - (b) **“Rendering services outside Sri Lanka”** shall include providing services abroad in seagoing vessels/ ships, commercial aircrafts and also providing construction, janitorial, health, security, accounting, legal and other services in foreign countries;
 - (c) **“Current transactions”** shall have the same meaning as in the Foreign Exchange Act, No. 12 of 2017;
 - (d) **“Capital transactions”** shall have the same meaning as in the Foreign Exchange Act, No. 12 of 2017;
 - (e) **“Non-Governmental Organization”** shall mean a voluntary social service organization registered under the National Secretariat for Non-Governmental Organizations in terms of the Voluntary Social Service Organizations [Registration and Supervision] Act, No. 31 of 1980 and any amendment thereto;
 - (f) **“Foreign exchange and Foreign Assets”** shall have the same interpretation in terms of the Section 33 of the Foreign Exchange Act, No. 12 of 2017;
 - (g) **“Shipping Agent”** shall mean a person authorized to carry on business as a shipping agent in Sri Lanka on behalf of a foreign shipping line (foreign principal) with a valid license or authorization letter issued by the Director General of Merchant Shipping of Sri Lanka;
 - (h) **“Foreign shipping line”** shall mean any shipping line within the meaning of the Licensing of Shipping Agency Act, No. 10 of 1972 (as amended) which is a resident outside Sri Lanka;
 - (i) **“General Sales Agent”** shall mean a person authorized to carry on business as a general sales agent in Sri Lanka on behalf of a foreign airline (foreign principal) with

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- a valid license or authorization letter issued by the Director General of Civil Aviation Authority of Sri Lanka;
- (j) **“Foreign airline”** shall mean any “foreign air operator” within the meaning of the Civil Aviation Act, No. 14 of 2010 (as amended) which is a resident outside Sri Lanka;
- (k) **“Port Terminal operators”** shall include Airport & Aviation Services (Sri Lanka) Ltd., Sri Lanka Ports Authority, South Asia Gateway Terminals (Pvt) Ltd. and Colombo International Container Terminals Ltd;
- (l) **“Person”** means any natural or legal person.
5. Directions No. 04 of 2017 dated 20 November 2017 issued to ADs specifying requirements related to operating of BFCAs are hereby rescinded.
6. The revocation of previous Directions referred to in Paragraph 5. above shall not affect any rights accrued on or penalties or liabilities incurred, under them prior to the revocation.
7. Nothing permitted by these Directions shall be construed as exempting, absolving or preventing ADs or any person dealing in foreign exchange under these Directions, from the requirement to comply with the provisions of any other law.
8. These Directions shall come into operation with effect from **22 March 2021**.

Director-Department of Foreign Exchange
18 March 2021

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Annex I to the Directions No.05 of 2021

Category of Persons

1. Exporters of goods (Merchandise)
2. Exporters of professional services
3. Persons who engage in the business of Entrepot trade as intermediaries
4. Travel Agents and Tour Operators
5. Hotels and Restaurants
6. Gem and Jewelry Dealers
7. Foreign Employment Agencies
8. Freight Forwarders and Other logistic service providers licensed/authorized by Director General of Merchant Shipping of Sri Lanka
9. Shipping Agents licensed/authorized by Director General of Merchant Shipping of Sri Lanka
10. General Sales Agents licensed/authorized by Director General of Civil Aviation Authority of Sri Lanka
11. Bunker operators licensed by the relevant line Ministry
12. Port Terminal Operators
13. Airline Terminal service providers
14. Food and Beverages suppliers to Shipping lines and Airlines
15. Duty free shops (who engage in permitted business to supply goods and services under duty free concessions)

Monthly Statement of Business Foreign Currency Accounts (BFCAs)

Name of the Bank:

Reporting Month & Year:

Category of the Account	Currency	Balance as at beginning of the month	CREDITS						DEBITS							Balance as at end of the month	Total Number of A/Cs as at end of the month
			Inward Remittances	Transfers From other Accounts	Remittances made under the provisions of Sec. 8(3) of FEA by individuals	Total Interest Credited	Other credits	Total	Outward Remittances	Transfers To Other Accounts	Debt servicing expenses and repayment of foreign currency accommodations and transfer of funds to BFCA Loan Account	Local Disbursement/ Transfer to Rupee Accounts	Remittances made under the provisions of Sec. 8(6) of FEA by individuals	Transfers to investment in SLDBs in foreign currency	Other debits	Total	
Exporters of goods																	
Exporters Professional Service																	
Persons who engage in the business of Entrepot trade as intermediaries																	
Travel Agents/ Tour operators																	
Hotels & Restaurants																	
Gem & Jewellery Dealers																	
Insurers																	
Foreign Employment Agencies																	
Freight Forwarding & other logistic service providers																	
Shipping agency																	
General sales agency (airline)																	
Bunker operators licensed by the relevant line Ministry																	
Port Terminal Operators																	
Airline Terminal service providers																	
Food and Beverages suppliers to Shipping lines and Airlines																	
Companies having arrangements with overseas employers for disbursement of wages to Sri Lankans																	
Duty free shops (who engage in permitted business to supply goods and services under duty free concessions)																	
Other (Specify the Category)																	
Total																	

Note: Please provide information on different types of designated currencies in all accounts (EUR, USD, GBP, Other (pls specify))**: Authorized Dealers are required to furnish both scanned copy of the report and the MS Excel version of the same as above**

We certify that the above information extracted/ generated from the books of accounts of the bank is accurate.

Name and Designation of the Authorized Officer :.....

Signature and Seal :.....

Date :.....

Name of the Compliance Officer :.....

Signature :.....

Date :.....