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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART I : SECTION (I) — GENERAL

Government Notifications

FOREIGN EXCHANGE ACT, No. 12 OF 2017

Order under Section 22

BY virtue of the powers vested in me under Section 22 of the Foreign Exchange Act, No. 12 of 2017 (the Act), I, Anura Kumara Disanayake, Minister of Finance, Planning and Economic Development, do by this Order,

- i. Limit the outward remittances made by an emigrant under the initial migration allowance in terms of the general permission granted in Part I of the Schedule to the Regulations No. 3 of 2021 published in the *Extraordinary Gazette* Notifications No. 2213/36 dated 03 February 2021, up to USD 100,000 or equivalent in any other designated foreign currency;
- ii. Suspend making payments through an Outward Investment Account for the purpose of making investments overseas by a person resident in Sri Lanka in terms of the general permission granted in Part I of the Schedule to the Regulations No. 1 of 2021 published in the *Extraordinary Gazette* Notifications No. 2213/34 dated 03 February 2021 (herein after referred to as “Regulations No. 1 of 2021”), excluding:
 - (a) investments made by the following eligible investors in the ordinary shares of companies incorporated outside Sri Lanka (investees):
 - i. Companies incorporated in Sri Lanka and listed in the Colombo Stock Exchange (CSE), up to USD 500,000 or equivalent in any other designated foreign currency, or



- ii. Companies incorporated in Sri Lanka and not listed in the CSE, up to USD 150,000 or equivalent in any other designated foreign currency, or an amount less than or equivalent to 20% of the net assets of the investor company as per the audited financial statements of the latest financial year, whichever is lower, or
- (b) investments made by a company incorporated in Sri Lanka in the ordinary shares of a company outside Sri Lanka (investee) provided that, such investment is entirely financed through a permitted foreign currency loan obtained by the investor company from a person resident outside Sri Lanka, or
- provided that the investments referred at paragraphs (a) and (b) above are subject to the following conditions:
- a. the purpose of the investments shall be expansion of business overseas as defined in paragraph 2.i below.
- b. the investments shall not comprise of portfolio investments as defined in paragraph 2.ii below.
- c. investee shall not be a company engages in investments as its principal business activity.
- d. the investor company shall confirm that the investments comply with the conditions given at paragraphs a, b and c above, by a resolution passed by the Board of Directors of such company, to the Authorised Dealers through which the outward remittances are to be made *via* Outward Investment Accounts.
- (c) subsequent investments made by an eligible resident investor to fulfill the regulatory requirements in the investee's country applicable on the investments already made in a subsidiary or an overseas office, in that country, in compliance with the provisions of the Act and Regulations issued thereunder, or
- (d) investments made by a company incorporated in Sri Lanka to set up overseas offices, up to USD 100,000 or equivalent in any other designated foreign currency, or
- (e) investments made by a company incorporated in Sri Lanka in overseas offices established prior to the effective date of the Order published in the *Extraordinary Gazette* Notifications No. 2389/08 dated 18 June 2024, in compliance with the provisions of the Act and Regulations issued thereunder, up to USD 30,000 or equivalent in any other designated foreign currency, or
- (f) investments made by a licensed bank, in the shares of subsidiaries overseas and/or in overseas offices for the purpose of carrying out banking operations, or
- (g) investments in Employee Share Ownership Plans or Employee Share Option Schemes, made by eligible resident individuals.
- iii. Limit the outward remittances on capital transactions through Business Foreign Currency Accounts held by persons resident in Sri Lanka for the purpose of expansion of business overseas, up to USD 200,000 or equivalent in any other designated foreign currency;
- iv. Limit the outward remittances on capital transactions through Personal Foreign Currency Accounts held by persons resident in Sri Lanka, up to USD 20,000 or equivalent in any other designated foreign currency;
- v. Investments which exceed the limits specified in the general permission granted in Regulations No. 1 of 2021 may be considered on a case-by-case basis by the Central Bank of Sri Lanka in terms of subsection 10 of Section 7 of the Act, provided that, such investments meet any of the following criteria:
- (a) The proposed investment shall be made by a company incorporated in Sri Lanka in the ordinary shares of a company outside Sri Lanka provided that, such investment is entirely financed through a permitted foreign currency loan obtained by the investor company from a person resident outside Sri Lanka and fulfills the conditions given as a., b., c. and d. under sub-paragraph ii above, or

- (b) The proposed investment shall be made by an eligible resident investor to fulfill the regulatory requirements in the investee's country applicable on the investments already made in a subsidiary or an overseas office, in that country, in compliance with the provisions of the Act and Regulations issued thereunder, or
- (c) investments made by a licensed bank, in the shares of subsidiaries overseas and/or in overseas offices for the purpose of carrying out banking operations.
2. For the purposes of this Order,
- i. "expansion of business" means, either:
- (a) Expansion of activities directly related to the existing product line or service offerings. This includes increasing production/service capacity or expanding the range of products or services offered within the existing line of products or service offerings, and/or
- (b) Vertical integration of activities through the supply chain. This may include either:
- i. Backward integration where the activities directly related to the sourcing of raw materials or components used in the existing line of products or service offerings, and/or
- ii. Forward integration where the activities that constitute acquiring or establishing control over entities closer to the end customer, limited to activities directly related to the distribution including warehousing, marketing, and retailing of existing products or service offerings.
- ii. "portfolio investments" means investments made by eligible resident investors that entitle such investors to less than 10 percent of the voting power of a company incorporated outside Sri Lanka.
- iii. "overseas offices" means branch, liaison, marketing, agency, project, representative or other similar offices established in a foreign country.
- iv. "a licensed bank" means a licensed commercial bank or a licensed specialized bank within the meaning of the Banking Act, No. 30 of 1988.
3. Any eligible resident person who has already made outward remittances under paragraphs (i), (ii), (iii) and (iv) of paragraph 1 of the Order published in the *Extraordinary Gazette* Notifications No. 2389/08 dated 18 June 2024 shall be permitted to make outward remittances under this Order, provided that the cumulative sum of such outward remittances under both the aforesaid Order and this Order does not exceed the maximum limits specified in the aforesaid Order.
4. This Order is valid for a period of six months from 20 December 2024. The Order published in the *Extraordinary Gazette* Notifications No. 2389/08 dated 18 June 2024 is hereby rescinded without prejudice to the paragraph 3 above.

Sgd; ANURA KUMARA DISSANAYAKE,
Minister of Finance, Planning and
Economic Development.

Colombo,
19 December, 2024.

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