

FOREIGN INVESTMENT IN SHARES



Gazette Notification No 1232/14 of 19/04/2002, 1248/19 of 08/08/2002 and 1685/2 of 21/12/2010 grants permission, subject to exclusions, limitations and conditions for the issuance of shares by resident companies to foreign investors (non residents), without prior approval of the Exchange Control Department. In the areas of investment, movement of funds of such transactions will be through a scheme of account titled, "**Securities Investment Account (SIA)**".

Permission has been granted for the issue and transfer of shares in a company up to 100% of the issued capital of such company, to approved country funds, approved regional funds, corporate bodies incorporated outside Sri Lanka and individuals resident outside Sri Lanka (inclusive of Sri Lankans resident outside Sri Lanka) subject to the exclusions, limitations and conditions hereinafter set out.

EXCLUSIONS

The permission granted shall not apply in respect of shares of a company proposing to carry on or carrying on any following businesses.

- i. Money lending,
- ii. Pawn broking
- iii. Retail trade with a capital of less than One Million US Dollars.
- iv. Coastal fishing
- v. Provision of Security services including security management, assessment and consulting to individuals or private organizations.

LIMITATIONS

(a) The permission granted shall apply in respect of shares in a company carrying on or proposing to carry on any of the following businesses only up to 40% of the issued capital of such company, or if approval has been granted by the Board of Investment of Sri Lanka for a higher percentage of foreign investment in any company, only up to such higher percentage.

- i. Production of goods where Sri Lanka's exports are subject to internationally determined quota restrictions;
- ii. Growing and primary processing of tea, rubber, coconut, cocoa, rice, sugar and spices;
- iii. Mining and primary processing of non renewable national resources;
- iv. Timber based industries using local timber;
- v. Fishing (deep sea fishing);
- vi. Mass communications;
- vii. Education;
- viii. Freight forwarding;
- ix. Travel agencies;
- x. Shipping agencies.



- (b) The permission granted shall apply in respect of shares of a company carrying on or proposing to carry on any of the businesses set out below only up to the percentage of the issued capital of the company for which percentage either general or special approval has been granted by the Government of Sri Lanka or any legal or administrative authority set up for the approval of foreign investment in such businesses.
- a. Air transportation;
 - b. Coastal shipping;
 - c. Industrial undertaking in the Second Schedule of the Industrial Promotion Act. No.46 of 1990, namely
 - i. Any industry manufacturing arms, ammunitions, explosives, military vehicles and equipment aircraft and other military hardware;
 - ii. Any industry manufacturing poisons, narcotics, alcohols, dangerous drugs and toxic, hazardous or carcinogenic materials;
 - iii. Any industry producing currency, coins or security documents;
 - d. Large scale mechanized mining of gems;
 - e. Lotteries.

CONDITIONS

- (a) A person residing outside Sri Lanka who is a party to the transaction permitted hereunder is required to make a declaration to the effect that such a person is outside Sri Lanka on the share transfer form or share application form as applicable.
- (b) The payment for shares in any issue or transaction permitted hereunder should be made only out of or into a SIA opened in a commercial bank of Sri Lanka in accordance with the directions given by the Controller of Exchange in that behalf to commercial banks.
- (c) A commercial bank, a licensed stock broker or any other person entrusted with the payment of capital monies such as sale proceeds of shares, dividends and commissions in respect of any transaction permitted hereunder shall make such payment only into or out of a SIA referred to in sub paragraph (b) above.
- (d) The Secretary/ Registrar to a company in which the issue or transfer of shares to persons resident outside Sri Lanka are limited under 'limitations' shall not register the name of any person resident outside Sri Lanka or a citizen of a foreign State or their nominee as a share holder in such company if by such registration the limits specified shall be exceeded.

Issue and transfer of debentures of companies incorporated in Sri Lanka to foreign investors

Gazette Notification No. 1681/11 of 22/11/2010 grants a general permission to issue and transfer debentures of companies incorporated in Sri Lanka to foreign investors subject to terms and conditions.

Permission has been granted for the issue and transfer of convertible or non-convertible, redeemable or non-redeemable debentures denominated in Sri Lankan Rupees in a company classified as a specified business enterprise in terms of the Sri Lanka Accounting and Auditing Standards Act, No. 15 of 1995, to foreign institutional investors, corporate bodies incorporated outside Sri Lanka, individuals resident outside Sri Lanka and Sri Lankans resident outside Sri Lanka, subject to the following terms and conditions.

1. Terms and Conditions Applicable to Debentures:

1.1 All debentures issued under this Notice shall be listed in the Colombo Stock Exchange, while such issue may be made either by private placement or initial public offer.

1.2 The period of redemption or conversion to ordinary shares, of the debentures issued under this Notice shall not be less than five years and such conversion should be subject to the exclusions and limitations stipulated in the Government Gazette Notification No. 1232/14 of 19/04/2002.

1.3 The debentures issued shall have a current credit rating from a local rating agency or international rating agency acceptable to the Securities and Exchange Commission of Sri Lanka.

1.4 The rate of interest on the debentures shall not exceed the five year secondary market Treasury bond rate published by the Central Bank of Sri Lanka plus 200 basis points at the date of issuance of the debentures.

2. Terms and Conditions applicable to Debenture-Issuing Company:

2.1 The Board of Directors of the debenture-issuing company (hereinafter referred to as the "company") shall ensure that cash inflows of its business operations are adequate to service the repayment of interest payments on the debentures, so as to prevent any material liquidity risk to the company.

2.2 The Board of Directors of the company shall establish a risk management process that ensures the company addresses the possible risks arising from the foreign investment in the debentures of the company and/or the contagion risk of any default and the other risks to the company in the case of such an eventuality.

2.3 The company shall make appropriate sinking fund arrangements for the orderly repayment of debentures on the maturity date and these arrangements shall be reviewed by the company's auditors.

2.4 Funds for the investment in debentures and the payment for debentures by the non-resident investor shall be made only out of funds received as inward remittances through a SIA, or funds available to the credit of a SIA of the foreign investor, opened and maintained in a licensed commercial bank in Sri Lanka in accordance with directions given by the Controller of Exchange to commercial banks.

2.5 A commercial bank or any other person entrusted with the payment of the capital amount, coupon, interests and commissions in respect of any transaction permitted hereunder shall make such payments only into or out of a SIA referred to in paragraph 2.4 above.

2.6 The company shall furnish a report to the Exchange Control Department within 30 days of receipt of remittances for investment in debentures providing the following details:-

- (a) The total amount received through SIAs.
- (b) The names and addresses of the Authorized Dealers through whom the remittances were received.
- (c) A certificate from the Company Secretary confirming that the provisions of the Exchange Control Act and the directions issued under the Act with regard to the issuance of debentures have been duly complied with.

3. Foreign institutional investors, corporate bodies incorporated outside Sri Lanka, individuals resident outside Sri Lanka and Sri Lankans resident outside Sri Lanka shall be permitted to transfer the debentures acquired by them in terms of paragraph 2.

Securities Investment Account (SIA)

1. Permitted Credits

- i) Inward remittances received from abroad through banking system,
- ii) Transfer of funds from NRFC/FCBU/RNNFC accounts of the same account holder,
- iii) Sale proceeds realized out of sale or transfer or maturity of T- bonds/ T- bills or any income realized by way of capital gain thereof,
- iv) Sale proceeds of shares supported by documentary evidence (Broker's Contract Notes and evidence of payments of tax etc.) and dividends,
- v) Dividend income on units of unit trusts net of tax supported by documentary evidence,
- vi) Proceeds on redemption of units net of tax supported by documentary evidence,
- vii) Commissions relating to share transactions with supporting evidence,
- viii) Liquidation proceeds of companies,
- ix) Interest received on T-bonds, and
- x) Other all credits permitted on shares in terms of Operating Instructions No. 06/02/12/2001 dated 06.11.2001 in respect of Stock Borrowings and Lending (SBL) transactions

2. Permitted Debits

- i) Payments for investment in shares /units of unit trusts / T-bonds/ T-bills,
- ii) Outward remittances of sale/redemption/maturity or liquidation proceeds of shares/ units/ T-bonds/ T-bills and dividends of shares or units,
- iii) Payments to brokers, primary dealers, lead managers, management company of a unit trust

and bank charges,

iv) Payments for local expenses of the account holder,

v) Transfer of funds to the accounts maintained by the account holder at FCBU, and

vi) All debits permitted in our Operating Instructions No. 06/02/12/2001 of 06.11.2001 in respect of SBL transactions on shares.

Other issues with regard to investment in Sri Lanka through a SIA

Foreign currency remitted by the foreign investors as subscription for primary shares may be held in an off-shore banking unit and upon allotment of shares be transferred, to the SIA of the same investor. Authorized Dealers who are licensed commercial banks are permitted to approve applications for export of share certificates issued by companies in the CSE in respect of shares purchased by SIA account holders out of the funds in the account.

Overdraft Facilities, Credit Interest on SIA:

As per Central Bank regulations, foreign investors are NOT PERMITTED to overdraw nor earn interest (credit/debit balances). Cheque Books are not issued.

Initial Deposit, based on bank's practices, should be via Inward Remittance equivalent in foreign currency.

Rupee Accounts for Non Resident Sri Lankan Investment (RANSI)

A special account to encourage Sri Lankan citizens residing outside Sri Lanka to remit foreign exchange for investment in Sri Lanka.

The account is to be maintained in Sri Lanka Rupees. Joint accounts are not permitted under this scheme.

Who is eligible to open an account?

- Sri Lankan citizens who are permanent residents of other countries.
- Sri Lankan citizens who have proceeded outside Sri Lanka for taking up employment or setting up in a business or profession and continue to reside abroad.

Funds channelled through this account may be invested in shares, government securities, debentures, units in Unit Trusts, financial assets and in real assets such as land and building.