

22nd March 2021

FOREIGN EXCHANGE REGULATIONS 2021

The Ministry of Finance replaced the [existing Foreign Exchange Regulations of 2017](#) with [new Regulations](#) which came into effect on 22 March 2021.¹

The Regulations on Foreign Exchange are now split into 7 primary regulations:

- a. [Outward capital transactions \(No.1 of 2021\)](#)
- b. [Inward capital transactions \(No.2 of 2021\)](#)
- c. [Emigrant fund remittances \(No.3 of 2021\)](#)
- d. [Miscellaneous Capital Transactions \(No.4 of 2021\)](#)
- e. [Accounts for Foreign Exchange Transactions \(No.5 of 2021\)](#)
- f. [Meaning of “Resident”](#)
- g. [Import and export of currency](#)

KEY HIGHLIGHTS

- a. Under the [2017 FEA Regulations](#), outward capital transactions were freely permitted. Although investor categories have been expanded, the new regulations now require clearance from the Department of Foreign Exchange (DFE) *per transaction*. This reverses the FEA regimen and reverts outward transactions to the restrictions under the previous [Exchange Control Act](#).
- b. A previous limit of USD 200,000 on Employee Share Option Plans (ESOPs) have been removed.
- c. "Retail trading" defined. So, B2B are not subject to a minimum USD 5mn investment.
- d. Four (4) new categories of inward investments have been introduced. However, some require approval of the relevant authorities and stringent reporting requirements must be met.
- e. Inward Investment Accounts (IIA) are no longer the only route for inward investments. External Commercial Borrowing Account (ECBAs) have been reintroduced for certain loan transactions.
- f. Definition of “Emigrants” and “immediate family members” introduced along with 2 new accounts for Emigrants to repatriate income. Emigrant Non-Sri Lankan citizens (foreign nationals) now permitted an initial migration allowance of USD 200,000 and annual allowances.
- g. A maximum of USD 15,000 may be released to those intending to leave Sri Lanka on a temporary residence visa to support their initial settlement.

¹Note the [Orders issued in 2020 restricting outward remittances](#) due to the covid concerns continue to be in effect till [2nd July 2021](#).

- h. Government of Sri Lanka (GOSL) permitted to issue sovereign guarantees to enable the GOSL or State Owned Enterprises (SOEs) to Issue International Bonds (ISBs) or receive foreign borrowings.
- i. Insurance businesses permitted to issue life insurance policies to non-nationals resident in or outside Sri Lanka and repatriate benefits relating to such policies.
- j. New categories introduced as “Resident” including GOSL and all SOEs. This means that Government entities can now attract inward foreign debt investments in the same manner as companies.
- k. A ceiling on inward currency requiring declaration from customs increased from USD 10,000 to USD 15,000. A stamped customs declaration required to credit foreign currency into an IIA of the investor for investment purposes.

a. OUTWARD INVESTMENTS – Capital Transactions by persons resident in SL

1. **The types of investors eligible to invest outside Sri Lanka** have been **expanded** to include:

Investor type	Permitted limit of investment
(i) regulated or licensed entities under the Central Bank of Sri Lanka (CBSL), Securities Exchange Commission (SEC) or Insurance Regulatory Commission	USD 500,000 or equivalent per calendar year
(ii) Employees’ Provident Fund (EPF),	
(iii) sole proprietorships (in aggregate with the proprietors limit)	USD 200,000 or equivalent for a life time
(iv) Licensed Commercial Banks (LCBs) and Specialized Banks (LSBs) (for limited purposes)	USD 500,000 or equivalent per calendar year or up to the limit imposed by the regulator in the investee country ²

Now these investors can invest outside Sri Lanka in the same manner that companies and individuals.

² Investee country is the country the resident investor is remitting outward investments to.

2. **Investment limits** set out in the regulation are **aggregated** and include previous investments. But do not apply to shares devolving on the investor³ and investments where no consideration is paid.
3. **Prior clearance from the Head of the DFE is required per outward remittance.** The following must be established when seeking clearance:
 - Status and progress of previous investments: Corporate and institutional investors in particular must prove 3 years of “sound financial position and performance”.
 - Supporting documents including a certificate from a Fellow member of the Institute of Chartered Accountants or Charter holder of Chartered Financial Analyst (CFA Institute), on the progress and status of the previous investments.
4. **Reporting and compliance required.** Corporates investing in unlisted companies outside SL required to annually evaluate the progress of investment and report to DFE.⁴
5. Voluntary Social Service Organizations (VSSOs) and companies limited by guarantee prohibited from making outward investments.
6. The previous **limit of USD 200,000 on ESOPs have removed.** New regulations covering ESOPs include:
 - Sri Lankan company can make lump sum payment on behalf of employees provided **DFE Clearance** is obtained for **each employee**.
 - Dividend repatriation to Sri Lanka is subject to any mandatory or optional terms in the prospectus (e.g: reinvestment).
 - Despite the above, all ESOPs require approval from DFE as all outward capital transactions now require DFE clearance.
7. Any outward investments by Emigrants while residing in Sri Lanka is deductible from the eligible Migration Allowance. See section on [Emigrants and Migration allowance](#).

³ Devolving by virtue of (i) corporate action of issuer, (ii) conversion of preference shares/debentures/corporate bonds or (iii) due to merger or amalgamation

⁴ including details of profit and loss of the investee company, dividends declared, dividends received

b. INWARD INVESTMENTS – Capital Transactions by persons resident outside Sri Lanka

1. **Definition of retail trading** - “re-sale (sale without transformation) of new and used goods to the general public for personal or household consumptions or utilization”. Therefore, B2B businesses can now set up in Sri Lanka without being subject to the minimum investment of USD 5 million.
2. Definitions have also been introduced for some key terms including “Conversion to shares”,⁵ “entitlement to shares”, “immediate family members”⁶ and “Sri Lanka Development Bonds”.
3. **4 new categories of inward investments** by non-residents have been introduced:
 - Loans to the GOSL and SOEs⁷ subject to relevant regulatory approvals;
 - Loans to LCB’s, LSB’s, licensed finance companies (“LFCs”) and Specialized Leasing Companies (“SLCs”), subject to relevant regulatory approval;
 - Loans with a tenure of less than 3 years to Sri Lankan companies maintaining Business Foreign Currency Accounts (BFCAs),⁸ to meet working capital requirements.
 - Loans by a parent company incorporated outside Sri Lanka to its branch office or project office registered in Sri Lanka as an overseas company

Strict reporting requirements to the Head of the DFE on details of borrowings⁹ by LCB, LSB, GOSL and SOE introduced with timelines.

Additionally, any investment in companies incorporated outside Sri Lanka listed on the Colombo Stock Exchange (CSE) must be through funds channeled via accounts in the Offshore Business Unit (OBUs) of an LCB.

4. **Inward Investment Account (IIA) no longer mandatory for all categories of inward investments.** See table below for a summary. Any borrowing from non-residents must still be via an External Commercial Borrowing Account (ECBA). GOSL has also been granted general permission to issue International Sovereign Bonds (ISBs) or other debt securities to non-residents.

⁵ Definition of “conversion to shares” covers:

- a) Conversion of preference shares in Sri Lankan companies (issued under EC Act or these regulations) to ordinary shares
- b) Conversion of loans/ debt securities in Sri Lankan companies (obtained/issued under EC Act or these regulations) to ordinary shares
- c) Conversion of value of imported machinery to ordinary shares in the name of the company outside Sri Lanka by whom cost was incurred

⁶ Now includes “parents, grandparents, spouse and children”

⁷ “State Owned Enterprise” means a state owned enterprise of the GOSL of which the share capital over fifty per centum is owned by GOSL

⁸ BFCAs are foreign currency accounts opened for business transactions

⁹ Details including date of borrowing, amount of the loan and currency, tenure, profile of lender

Type of investment	Account through which investment should be channeled and income repatriated	Regulation
Shares in companies incorporated in Sri Lanka	IIA mandatory	Para 4(1)(a) – heading A – Part 1
Debt securities of unlisted companies with a tenure of 3 or more years	IIA mandatory	
Debt securities issued by LCBs, LSBs, LFCs or SLCs	IIA mandatory	
Loans with a tenure of 3 or more years to Sri Lankan companies	ECBA	Para 4(2) – heading A – Part 1
Loans by the parent company incorporated outside Sri Lanka to its branch or project office registered in Sri Lanka as an overseas company		
Loans to GOSL or SOEs	IIA not mandatory. Loan to be given and income and proceeds repatriated directly	Para 4(1)(c) and (d) – heading A – Part 1
Loans to LCBs, LSB, LFCs or SLC	IIA not mandatory for loans to LCB and LSB. Such loans may be given and income and proceeds repatriated directly. Loans to LFC and SLC should be via IIA.	
Investments in units in Unit Trusts or Mutual Funds	IIA not mandatory. investment and income and proceeds repatriated directly	
Immoveable properties, listed debt securities, Government securities, Securities issued by CBSL or SOE or other statutory body, Sri Lanka Development Bonds, Term deposits in licensed financial institutions	IIA mandatory unless permitted by Monetary Board	Para 4(1)(a) and (c) – heading A – Part 1
Loans with a tenure less than 3 years to Sri Lankan companies having a BFCA	BFCA	Para 4(1)(e) – heading A – Part 1

5. The new Regulations also address the repatriation of proceeds from investments which have either been inherited by or gifted to **non-resident individuals**

Nature of ownership of investment by non-resident	Repatriation
Proceeds from investment inherited/gifted from an immediate family member or court order where a) initial investment as per these FEA regulations OR b) initial investment was via a Securities Investment Account (SIA) or any other account prior to 20 November 2017)	IIA of beneficiary
Proceeds from investment inherited/gifted to non-resident (except Emigrant) <u>from immediate family member who is a resident</u> or under court order	Capital Transaction Rupee Account (CTRA)
Proceeds from investment inherited/gifted to non-resident (except Emigrant) <u>from another emigrant or emigrant immediate family member</u> or under court order – where investment was made while emigrant was a resident	

6. Conditions have been imposed on the **conversion of debt securities and loans by non-residents to ordinary shares in Sri Lankan companies**.
- Investments in non-listed debt securities can be converted only after an expiry of 18 months from borrowing
 - Any conversion of debt security/loans granted to LCB, LSB, LFC, SLC can be converted to ordinary shares only on obtaining approval from the relevant regulator.
 - A conversion of listed debt securities is subject to CSE regulations.
7. **Timelines** to complete the transaction and register the investment has been imposed:
- Sri Lankan companies must issue, transfer and register securities within 3 months from date of inward investment unless granted an extension by CBSL.

c. EMIGRANT FUND REMITTANCES

1. **Definition for “Emigrant”**¹⁰ in relation to the migration allowance scheme¹¹ (**MA**) has been expanded. Grandparents and Siblings of the Emigrant are also now considered “immediate family members”¹² for purposes of the MA. The description of the term “Asset”¹³ under the previous regulations has been omitted and is now generally interpreted to include ‘movable, immovable, tangible and intangible assets’.
2. **The types of proceeds that can be repatriated under MA** has been detailed in the regulations as follows:
 - (i) Proceeds realized from assets **owned** while being a SL resident or **acquired through funds in SL**
 - (ii) Proceeds realized from assets (except funds the Personal Foreign Currency Account (PFCA) or IIA) **inherited from a person resident in SL**
 - (iii) Proceeds realized from assets (except funds from PFCA and IIA) received as **a gift from an immediate family member resident in SL**
 - (iv) Proceeds realized from assets (except funds from PFCA and IIA) that are **inherited** or received as **a gift from another emigrant immediate family member**¹⁴
 - (v) **Monetary gifts from immediate family members** – being funds realized from assets in SL
3. **MA limits** are specified in the regulations:

Allowance	Limit
Initial migration allowance	USD 200,000 per emigrant
Annual Migration allowance	USD 30,000 ¹⁵

¹⁰ “Emigrant means:

- (a) A Sri Lankan who has obtained PR or citizenship in another country
- (b) Dual citizen whose mother or father was born in Sri Lanka; or
- (c) A non-Sri Lankan citizen (i) whose mother or father was born in Sri Lanka and (ii) whose birth has been registered in Sri Lanka

¹¹ Scheme that enables all emigrants to repatriate an initial and subsequent annual allowances

¹² “immediate family member” means parents, grandparents, siblings and spouse of the relevant person

¹³ Under the 2017 Regulations “Asset” may include the value of precious stones, precious metals, personal jewelry and other assets held in Sri Lanka including estates inherited as beneficiaries

¹⁴ from investments made by the emigrant immediate family member while being a resident in SL or through an LKR account or that was inherited or received as gift by him/her

¹⁵ first annual allowance transferable after 12 months of the full utilization of the initial, and subsequent annual allowances per calendar year

Where part of initial migration allowance was taken before 20.11.2017 at that time USD 150,000)	Balance from USD 150,000 + annual allowance of USD 30,000
Where initial migration allowance was fully utilized prior to 20 November 2017 (at that time USD 150,000)	Accumulated annual allowance of USD 20,000 for years 2013 – 2016, and USD 30,000 for subsequent years

4. Previously **non-Sri Lankan citizens (foreign nationals)** were permitted only an annual allowance of 30,000 from sale of any inherited property in Sri Lanka. Now all Emigrants are permitted an initial MA of USD 200,000 to repatriate proceeds from gifts from an immediate family member¹⁶ and inherited property. Property inherited from or gifted by one Emigrant to another is also recognized under the MA scheme.
5. Certain **funds are deductible from the eligible MA**:
 - Investments by the Emigrant through an Outward Investment Account (OIA) made to the country they obtain PR or citizenship, while they were residents in Sri Lanka
 - Funds used to pay for visas under “parent migration schemes”.¹⁷ Funds up to USD 30,000 remitted by those who have obtained temporary resident visa¹⁸
6. **Different types of accounts** can now be opened by Emigrants for MA and income from Sri Lanka.
 - (i) Capital Transaction Rupee Account (CTRA) – this remains the principal account through which the MA is sent as well as any income¹⁹ (over and above the MA).
 - (ii) Emigrants Remittable Income Account (ERIA) - current income repatriation (over and above the MA). Opened only if the regulatory requirements of the emigrants PR/citizenship country requires (to identify global current income)
 - (iii) Non Resident Rupee Account (NRRRA) - Emigrant can make certain capital investments in Sri Lanka. Income from investments credited to NRRRA but funds cannot be repatriated outside Sri Lanka. Has to be transferred to the CTRA or ERIA for repatriation.

The regulations require that both (i) and (iii) have to be opened at the same bank
7. CTRAs that have not received a registration number from CBSL (inactive CTRAs) will be re-designated as NRRAs.
8. If immovable property inherited or purchased by Emigrant using LKR is sold, the proceeds must be paid in LKR and credited only to the NRRRA or CTRA of Emigrant.

¹⁶ The new regulations also define immediate family member to mean parents, grandparents, siblings and spouse of the relevant person. The earlier regulations only recognized gifts from parent and spouse.

¹⁷ “Parent Migration Scheme” is a scheme operated by a foreign country enabling Sri Lankan parents of a person who had obtained PR or citizenship in that country, to obtain PR in that country.

¹⁸ “Temporary Resident Visa” means a visa obtained by a SL citizen which falls into the category of visa that entitled the individual to obtain PR or citizenship in that country at a future date subject to fulfilling specified conditions”

¹⁹ Includes income from assets, superannuation benefits (EPF/ETF), gratuity, pensions.

d. MISCELLANEOUS

1. **Loans to Sri Lankans employed outside Sri Lanka** – loans advanced in Sri Lanka to Sri Lankans employed overseas can now be utilized to carry out current transactions by resident immediate family members.²⁰
2. **Borrowings by Sri Lankan students outside Sri Lanka** - The repayment of foreign loans (whether by the students/parents or guardians) taken **by Sri Lankan Students pursuing education overseas** are deductible from the students' eligible MA if the student: (i) obtains PR, (ii) obtains a temporary residency visa or (iii) citizenship in another country (including dual citizenship).
3. **Release of Foreign Exchange to those intending to leave SL under a temporary residence visa** – General permission has now been granted for residents intending to leave SL under a temporary residence visa (except temporary resident visa that entitles the individual to obtain PR or citizenship in that country), to take out a basic allowance for their initial settlement overseas, subject to a maximum of USD 15,000 or its equivalent. The dealers have the discretion to determine what amounts to a “reasonable” allowance.
4. **Time period within which export proceeds must be repatriated to Sri Lanka by exporters of goods** has been increased from 120 days to 180 days or such other period as may be specified by CBSL. The grace period of 30 days prior to instituting any action against any violations has been removed.
5. **Issuing of financial guarantees by residents–**
 - now LCBs and LSBs are permitted to **issue and renew specified bank guarantees, bonds and/or standby letters of credit**, as the case may be, in respect of current transactions in addition to that previously permitted for capital transactions
 - **GOSL** is now permitted to **issue sovereign guarantees** to enable the GOSL or SOEs to (i) issue international bonds or (ii) to receive foreign borrowings.
6. **Opening accounts outside Sri Lanka**
2 new categories of persons are entitled to open, maintain and operate foreign currency accounts with a regulated financial institution outside Sri Lanka:
 - a resident who had been a resident outside Sri Lanka and earned or otherwise acquired foreign exchange not involving the conversion of LKR into foreign exchange;
 - a Sri Lankan Company eligible to borrow from an overseas bank or financial institution if opening of the account is a condition of such loan agreement.

²⁰ “immediate family members” for purposes of the Regulations on Miscellaneous transactions means “parents, spouse and children” (and is therefore different from the definition of ‘immediate family members’ in relation to MA scheme)

7. **Issuance of life insurance policies to non-nationals resident in or outside Sri Lanka** - Subject to the applicable insurance laws, insurance businesses²¹ have now been granted general permission to issue life insurance policies to non- nationals resident in or outside Sri Lanka (*i.e.* insured),. Benefits of such policies²² can also be paid out without restriction.

e. OPENING OF ACCOUNTS

1. **3 new types of accounts introduced:**

- **Non Resident Rupee Account (NRRRA)** – for non-residents investing in Sri Lanka from funds in Sri Lanka
- **Emigrants' Remittable Income Accounts (ERIA)** – for emigrants to repatriate current income from SL (only if required as per the regulations in the country of PR/citizenship)
- **External Commercial Borrowing Accounts (ECBA)s** – for loans by non-residents to Sri Lankan companies (including overseas companies)

Dealers have also been authorized to open Special Foreign Currency Accounts (SFCAs) subject to the directions issued by CBSL.

2. Certain **existing accounts to be re-designated:**

Account	Re-designation
NRRAs of foreign banks and foreign exchange houses ²³	continue to operate as Vostro accounts in LKR
Resident Guest Scheme-Special Accounts and Senior Foreign Nationals' Special Accounts	continue to be operated without being re-designated ²⁴
CTRAs of foreign firms and companies outside SL	NRRAs
CTRAs of Sri Lankans employed and residing outside Sri Lanka (excluding emigrants)	Sri Lanka Rupee Accounts
Foreign Currency Accounts for International Service Providers and their Employees ²⁵	BFCAs and PFCAs respectively ²⁶

²¹ Companies registered in Sri Lanka to carry on insurance business under the Regulation of Insurance Industry Act, No. 43 of 2000

²² maturity benefits to the insured in the event where such policy holder outlives the term of the insurance policy, death benefits to the beneficiaries upon the demise of the insured or surrender value

²³ opened under the provisions of the repealed Exchange Control Act

²⁴ **with effect from November 17, 2017**

²⁵ opened by eligible employers and employees resident in Sri Lanka during the period May 7, 2010 to July 5, 2017 under the provisions of the repealed Exchange Control Act

²⁶ Re-designation with effect from November 20, 2017

Post Tsunami Inward Remittances Accounts (PTIRA) of Non-Governmental Organizations operating in Sri Lanka	Sri Lanka Rupee Accounts
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f. MEANING OF RESIDENT

The definition of Resident under the new regulations is expanded to include:

- i) GOSL (including Government Corporations, Government Institutions, Statutory Boards, Government Agencies and any other SOEs), and
- ii) Students who have proceeded outside Sri Lanka on a student visa who continue to stay on for a period of 182 days on completion of the studies.

This means that subject to the relevant regulatory approvals the Government entities can now attract inward foreign debt investments in the same manner as companies.

g. IMPORT AND EXPORT OF CURRENCY

- The regulations covering the import and export/ possession of foreign currency remain similar. But, the threshold of Foreign Currency (FC) notes that can be brought into to Sri Lanka without declaration to the Customs has been increased to USD 15,000 (from USD 10,000). Where FC notes are to be credited into an IIA for investment purposes, a stamped customs declaration must now be presented to the authorized dealer.
- Persons resident in Sri Lanka can export or import LKR for the purposes and terms recommended by CBSL subject to prior approval of the head of the DFE.
- Further liberalization of the amount of FC that persons resident outside Sri Lanka can retain in their possession whilst in Sri Lanka. As previously, persons can retain any amount of FC. However, the regulations now specify that the FC must be legally acquired and now includes FC acquired in Sri Lanka. Obligation has also been placed upon such non-residents to provide documentary proof to Customs and DFE if deemed necessary

NOTE: THE [2020 RESTRICTIONS ON CURRENCY OUTFLOWS](#) ISSUED DUE TO THE COVID CONCERNS REMAIN IN PLACE AND ARE NOT CHANGED BY THESE REGULATIONS.

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List of abbreviations

B2B	Business to Business
BFCA	Business Foreign Currency Account
CBSL	Central Bank of Sri Lanka
CSE	Colombo Stock Exchange
CTRA	Capital Transaction Rupee Account
DFE	Department of Foreign Exchange
ECBA	External Commercial Borrowing Account
EPF	Employees' Provident Fund
ERIA	Emigrants Remittable Income Account
ESOP	Employee Share Option Plans
FEA	Foreign Exchange Act
FC	Foreign Currency
GOSL	Government of Sri Lanka
IIA	Inward Investment Accounts
ISB	International Sovereign Bond
LCB	Licensed Commercial Bank
LFC	Licensed Financial Companies
LKR	Sri Lankan Rupees
LSB	Licensed Specialized Bank
MA	Migration Allowance
NRRA	Non Resident Rupee Account
OIA	Outward Investment Account
OBU	Offshore Business Unit
PFCA	Personal Foreign Currency Account
PR	Permanent Residency
SEC	Securities Exchange Commission
SIA	Securities Investment Account
SFCA	Special Foreign Currency Account
SLC	Specialized Leasing Companies
SOE	State Owned Enterprises
VSSO	Voluntary Social Service Organization