

CHAPTER 18 EXCHANGE CONTROLS

The rules relating to currency exchange and transfer in Thailand are to be found in the Exchange Control Act (1942) and regulations and notifications issued under the Act. The Act regulates the manner in which currency is brought into, taken out, exchanged, or (in the case of foreign currency) held in Thailand.

Historically, the Bank of Thailand has been in charge of enforcing the exchange control requirements. It has been policy for a long time for exchange controls to be gradually eased, with the responsibility for enforcement being transferred to commercial banks rather than the Bank of Thailand itself. In a case of doubt, a commercial bank may seek advice from the Bank of Thailand.

The exchange control regulations are complex and detailed. It is advisable for importers, exporters and any person who wishes to transfer Baht or foreign currency into or out of Thailand to seek prior advice from a commercial bank or professional advisor, as to whether the proposed transaction is permitted and whether any documentation has to be submitted.

It is also important to point out that the outbound payment of Baht may often only be permitted where evidence of a corresponding inbound payment has been made and such evidence submitted. Thus the documents relating to any inbound payment, for example, the purchase of a condominium by a foreigner, should be retained carefully.

Currency Regulations

1. Foreign Currency

Foreign currencies can be transferred or brought into Thailand without limit. Any person receiving foreign currency from abroad is required to repatriate such funds immediately and sell them to an authorized bank, or deposit them in a foreign currency account with an authorized bank within 360 days of receipt, except for foreigners temporarily staying in Thailand for not more than three months, foreign embassies, international organizations including their staff with diplomatic privileges and immunities, and Thai emigrants who are permanent residents abroad or working abroad.

Purchase of foreign currency from authorized banks is generally allowed upon submission of documents indicating international trade and investment. Companies in Thailand can engage in derivatives transactions with authorized banks to hedge against foreign exchange risk provided that supporting documents indicating future foreign currency receipts or obligations are submitted.

2. Local Currency

There is no limit on the amount of Thai baht bank notes that may be brought into the country. A person traveling to Vietnam, the People's Republic of China (only Yunnan province) and Thailand's bordering countries is allowed to take out up to THB 2 million. A person traveling to other countries is allowed up to THB 50,000.

Any person bringing into or taking out of Thailand Thai baht banknotes, foreign currency banknotes or negotiable monetary instruments in an aggregate amount exceeding 450,000 Baht or USD 15,000 or its equivalent must declare this to a customs officer.

2.. Bank deposits

a. Foreign Currency Account of Thai Residents

Thai residents are allowed to maintain 2 types of foreign currency accounts (FCD) with authorized banks. This is General FCD and FCD domestic-source without future obligations. Deposit or withdrawal of funds from such accounts under the following conditions:

1. Deposit

(1) General FCD :

1. Foreign currencies originating from abroad (foreign-source) can be deposited without limit.
2. Foreign currencies purchased or borrowed from authorized banks (domestic-source) can be deposited in an amount not exceeding future obligations to pay in foreign currencies to entities abroad. Such obligations include loan repayment to authorized banks.

(2) Foreign currency accounts without future obligations: the total outstanding balance shall not exceed USD 5 million for a natural person or a juristic person.

(3) Deposit of foreign currency notes and coins must not exceed USD 15,000 per person per day or not exceeding the evidence indicating that foreign currencies has been brought into Thailand.

2. Withdrawal

This is permitted:

- (1) For payment to entities abroad of the account holder's own obligations or its subsidiaries' obligations.
- (2) For payment to authorized banks of the account holder's own foreign currency liabilities or its subsidiaries' foreign currency liabilities.
- (3) For deposit into another foreign currency account of the same account holder.
- (4) For conversion into another foreign currency, prior to depositing into another foreign currency account of the same account holder, or for payment to an entity abroad, or for payment of liabilities to an authorized bank.

(5) For conversion into baht.

In the case of General FCDs, Thai companies having proceeds in foreign currency from overseas are allowed to transfer funds from their General FCDs to FCDs of their counterparties in Thailand for payment of goods or services.

b. Foreign Currency Account of Non-residents

Nonresidents may maintain foreign currency accounts with authorized banks in Thailand without limit. The accounts can be freely credited with funds originating from abroad. Payments from Thai residents or borrowing from authorized banks can be deposited subject to supporting evidences. Balances on such accounts may be freely withdrawn.

c. Non-resident Baht Account

Non-residents may open Thai Baht accounts with authorized banks in Thailand as follows:

(1) Non-resident Baht Account for Securities (NRBS): The account may be debited or credited for the purpose of investment in securities and other financial instruments such as equity instruments, debt instruments, unit trusts, derivatives transactions traded on the Thailand Futures Exchange and the Agricultural Futures Exchange of Thailand.

(2) Non-resident Baht Account (NRBA): The account may be debited or credited for general purposes (i.e. other than investment in securities) such as trade, services, foreign direct investment, investment in immovable assets, and loans.

The total daily outstanding balances for each type of account shall not exceed THB 200 million per nonresident. Transfers between different types of accounts are not allowed.

3. Trade and services

a. Exports

Export proceeds in an amount equivalent to USD 1 million or above shall be repatriated immediately after payment is received and within 360 days from the export date. The proceeds must be sold to or deposited in a foreign currency account with an authorized bank in Thailand within 360 days of receipt.

b. Imports

Importers may purchase or withdraw foreign currencies from their own foreign currency accounts for import payments upon submission of supporting documents. Letters of credits may also be opened without authorization.

c. Services

All proceeds from services in an amount equivalent to USD 1 million or above shall be repatriated immediately after payment is received and within 360 days

from the transaction date. The proceeds must be sold to or deposited in a foreign currency account with an authorized bank in Thailand within 360 days of receipt.

Outward remittances of amounts properly due to nonresidents are permitted for items of a non-capital nature such as service fees, interest, dividends, profits, or royalties provided that supporting documents are submitted to an authorized bank. Traveling expenses or educational expenses of residents are also freely permitted upon submission of supporting documents.

4. Foreign Investments

Transfers in foreign currency for direct and portfolio investments in Thailand are freely permitted. Proceeds must be surrendered to an authorized bank or deposited in a foreign currency account with an authorized bank in Thailand within 360 days.

Repatriation of investment funds and repayment of overseas loans can be remitted freely upon submission of supporting documents to an authorized bank. For repatriation of investment funds, evidence of sale or transfer of such investment shall be submitted. For loan repayment, evidence of inward remittance of such loan and loan agreement shall be submitted.

4. Capital transfers by Thai residents

a. Direct Investment and Lending Abroad

(1) A Thai company is allowed to invest in an overseas business entity whose shares are held by the Thai company not less than 10%, or to invest or lend to affiliated business entities abroad as necessary.

(2) A Thai company is allowed to lend to non-affiliated business entities abroad up to USD 50 million per year.

(3) A Thai natural person is allowed to invest in an overseas business entity whose shares are held by that person by not less than 10%, or to invest or lend to its affiliated business entities abroad as necessary.

Fund transfers for such investment or lending to business entities abroad must be in foreign currencies only, whereas fund transfers for investment or lending to business entities in Vietnam or Thailand's neighboring countries for trade and investment in Thailand or those countries can be in foreign currencies or in Thai Baht.

b. Portfolio Investment Abroad

(1) Institutional investors, namely the Government Pension Fund, Social Security Office, provident funds, mutual funds (excluding private funds), securities companies, insurance companies, specialized financial institutions, Thai juristic persons with assets of at least THB 5,000 million, companies listed in the Stock

Exchange of Thailand and brokers in Thailand Futures Exchange (TFEX) are allowed to invest in foreign securities without limit. Such investment shall not exceed the limit set by the supervisory authority, directors or managements of each institutional investor.

(2) Thai juristic persons or Thai natural persons having deposits or investments in securities or derivatives of at least 50 million Baht but less than 100 million Baht and at least 100 million Baht (Qualified Investor) can invest in foreign securities without the need to go through investment intermediaries in an aggregate amount not exceeding USD 1 million and USD 5 million per person per year respectively

(3) Retail investors can invest in foreign securities without the need to go through investment intermediaries up to USD 200,000 per investor per calendar year.

Note that for all of the above investors, they can invest in foreign securities through investment intermediaries, such as securities companies, authorized banks, private funds and derivatives brokerages, without limit provided that such investment shall be subject to the guidelines of and not exceed the limit set by the Securities and Exchange Commission.

c. Transfers for Other Purposes

(1) Outward remittances to Thai emigrants who are permanent residents abroad provided that funds are derived from their own assets, from their families or relatives, or from their inheritances are allowed without limit. Fund transfers to public for donation are allowed without limits.

(2) Purchase of shares, warrants and options of related companies abroad under employee benefit plans is allowed without limits.

(3) Purchase of immovable property abroad in the own name and the name of family member is allowed up to USD 50 million per person per year.

(4) Outward remittances to any person other than mentioned in (1) are allowed up to USD 50,000 per person per calendar year.

6. Reporting

Any person purchasing, selling, depositing, or withdrawing foreign currencies with an authorized bank shall notify details of foreign exchange transactions to the authorized bank. After conducting transactions, the authorized bank will issue an evidence of such transaction as prescribed by the Competent Officer to such person.

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