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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, Ranil Wickremesinghe, Minister of Finance, Economic Stabilization and National Policies, 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 a company outside Sri Lanka, for the purpose of expansion of business overseas as defined in paragraph 2 (i) below:



- 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 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 for the purpose of expansion of business overseas 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 under paragraph (a) and (b) above, shall not comprise of portfolio investments as defined in paragraph 2 (ii) below. The investor company shall confirm that the purpose of the investments is for the expansion of business and such investments do not comprise of portfolio investments, 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 a branch 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 as defined in paragraph 2 (iii) below, 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 as defined in paragraph 2 (iii) below, established prior to the effective date of this Order 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 as defined in paragraph 2 (iv) below, in the shares of subsidiaries overseas and/or 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 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 either of the following criteria:
- (a) the proposed investment is to be made by companies incorporated in Sri Lanka in the ordinary shares of a company outside Sri Lanka for the purpose of expansion of business overseas 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 shall not be a portfolio investment, or
 - (b) the proposed investment is to be made by eligible resident investors to fulfill the regulatory requirements in the investee's country applicable on the investments already made in a subsidiary or a branch office in that country, in compliance with the provisions of the Act and Regulations issued thereunder.

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 Banking Act, No. 30 of 1988.

3. This Order is valid for a period of six months from 20 June 2024. The Order published in the *Extraordinary Gazette* Notifications No. 2363/26 dated 20 December 2023 is hereby rescinded.

RANIL WICKREMESINGHE,
Minister of Finance, Economic Stabilization and
National Policies.

Colombo,
June 18, 2024.

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