

INTERNATIONAL CAPITAL AND FOREIGN EXCHANGE MARKET REGULATION

TITLE : 1 - Foreign Exchange Market

CHAPTER : 14 - Account in Foreign Currency

SECTION : 1 - General Provisions

1. According to the terms of current legislation and regulations, the following may be holders of foreign currency accounts in the country, duly observing the provisions of this title:
 - a) tourism agencies and providers of tourism services;
 - b) embassies, foreign diplomatic offices and international organizations;
 - c) The Brazilian Post and Telegraph Company, ECT;
 - d) international credit card administration companies;
 - e) companies charged with implementing and developing energy sector projects;
 - f) foreigners temporarily in the country and Brazilians, resident or domiciled abroad;
 - g) insurance, reinsurance and reinsurance brokerage companies;
 - h) transportation companies resident, domiciled or headquartered abroad;
 - i) agents authorized to operate on the exchange market;
 - j) (Revoked)
 - k) subsidiaries and branches, abroad, of Brazilian financial institutions.
2. Such foreign currency accounts must be maintained exclusively in banks authorized to operate on the exchange market.
3. With the exception of what is contained in section 8 of this chapter, the resources maintained in the accounts dealt with under this title may be freely invested on the international market.

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SECTION : 2 - Tourism Agencies and Suppliers of Tourism Services Restricted Operation
Accounts

1. Tourism agencies and providers of tourism services that operate with outgoing and incoming tourism may maintain foreign currency accounts that can be operated on a restricted basis in banks authorized to operate on the exchange market in the country, independently of whether the agency is or is not authorized to operate on the exchange market.
2. Deposits in such accounts may occur on the basis of foreign currency resources acquired on the exchange market for purposes of payment of commitments related to outgoing tourism or resources in foreign currency originating abroad or received from non-residents transiting through the country for settlement of commitments related to incoming tourism.
3. Debits in such accounts may occur through remittances abroad of payments for tourism services rendered or credit to the foreign currency account in the country by other providers of tourism services acting as outgoing tourism operators or, furthermore, for conversion into national currency for purposes of payment of services related to incoming tourism.
4. In cases of total or partial cancellation of services related to incoming tourism, the resources maintained in the account may be returned abroad through presentation to the depositary bank of a credit notification or equivalent document issued by the party contracting the service abroad at the time of payment.
5. Reception of foreign currency in the country is prohibited when it originates in the cited account or its conversion into national currency, except in the situation foreseen in paragraph 3 or when total or partial cancellation of the tourist service occurs, in which case the depositary bank must require corroborating documentation of that situation.
6. Banks may receive transfers for investments in time deposits or prior notification deposits, with earnings negotiated among the parties, as debits to the foreign currency accounts foreseen in this section.

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SECTION : 3 - Embassies, Foreign Legations, and International Organizations

1. Foreign currency accounts opened on the basis of article 26 of Decree 42820, of December 16, 1957, in the name of embassies, foreign diplomatic offices and international organizations recognized by the Brazilian government are operated exclusively with foreign currency resources, in which case negative balances are prohibited, regarding authorized banks may:
 - a) accept checks issued against them, received for charging purposes;
 - b) accept requests from their respective holders of such accounts in order to:
 - I - issue payment orders in foreign currency for use abroad;
 - II - effect payments in foreign currency, exclusively to members of the embassy, foreign diplomatic office or international organization that is the holder of the account;
 - III - effect payments in the country in Brazilian real through contracting of exchange, according to the terms of the regulations currently in effect.

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SECTION : 4 - Empresa Brasileira de Correios e Telégrafos - ECT, the Brazilian Post and Telegraph Company

1. Operation of the account held by the ECT is restricted and should observe the following:
 - a) it may only be opened and operated with foreign currency originating in purchases made by the ECT on the exchange market or financial transfers in the benefit of the ECT received from abroad;
 - b) the amounts held in the account are reserved exclusively for effecting payments due to the international postal administrations as a result of utilization of the system of international postal payments and postal reimbursements;
 - c) the account must be maintained in a single bank authorized to operate on the exchange market;
 - d) the balance in the account must be restricted to the level necessary to cover payments under this system;
 - e) reception of foreign currency in the country is prohibited.
2. The ECT must maintain monthly records related to its exchange operations on file for a period of five years for presentation to the Central Bank at the request of the latter, containing the following overall information broken down by postal administrator:
 - a) the volume of foreign currency purchases and/or sales carried out on the exchange market;
 - b) the total amounts related to postal payments and reimbursements issued and received by the ECT, by type of commitment and stating the corresponding outlays;
 - c) balance in foreign currency recorded at the account on the final business day of the month under consideration.

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SECTION : 5 - International Credit Card Management Companies

1. The accounts in foreign currency in the name of international credit card administration companies are subject to restrictions and must observe the following provisions:
 - a) such accounts may only be opened and operated with foreign currency resources or resources originating in purchases in authorized banks in the amounts corresponding to the amounts received from the holders of international credit cards;
 - b) the amounts maintained in the account are reserved exclusively to the effecting of payments due to international credit card companies for utilization of Brazilian credit cards abroad and in free shops in the country;
 - c) reception of foreign currency by the holder of the account or its conversion into national currency is prohibited.

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SECTION : 6 - Companies in Charge of Implementing and Developing Energy Sector Projects

1. This section deals with the opening and operation of foreign currency accounts in the name of companies responsible for implementation and development of projects in the country related to petroleum and natural gas prospecting, production, exploration, processing and transformation, as well as electricity generation and transmission.
 2. Operation of the foreign currency accounts dealt with in this section is restricted, as indicated below:
 - a) such accounts may only receive foreign currency resources in deposits in amounts equivalent to the Brazilian reais received as a result of the activities stated in paragraph 1 of this section and reserved for settlement of commitments and obligations abroad, as foreseen in the rules set down by the Central Bank of Brazil;
 - b) with the exception of the hypothesis stated in paragraph 11 of this section, withdrawals against the accounts may only be made for purposes of remittance abroad as payment of liabilities included in the projects, independently of whether they are or are not backed by Registration Certificates issued by the Central Bank of Brazil, duly complying with the terms of current exchange legislation;
 - c) the resources existent in such accounts may be freely invested on the international market at the exclusive discretion of the holder of the account, noting that:
 - I - in the hypothesis of losses in such investments, replenishment of the balance through new acquisitions of foreign currency, utilizing internal revenues in Brazilian real not generated by project activities, is prohibited;
 - II - in the hypothesis of gains in such investments, the corresponding earnings are included in the balance of principal, in which case the respective inflow into the country through exchange contracting is dispensed with, provided that the earnings be reserved to meeting commitments abroad related to the project.
 3. The account statements and financial statements indicating the amounts that may be remitted abroad must be maintained on file for a period of five years as of the end of the fiscal year, in which the operation occurred, for purposes of presentation to the Central Bank of Brazil, at the request of the latter.
 4. For the opening of the accounts dealt with in this section, the companies must have delegation (concession, authorization or permission) of the National Electric Energy Agency - ANEEL or the National Petroleum Agency - ANP or, furthermore, of the state entity responsible for delegation, when this case arises.
 5. The loss of delegation as dealt with in the previous paragraph implies loss of the right to maintain the foreign currency account, in which case measures are to be taken to close that account and convert any existing balance into Brazilian real within five business days through an exchange operation in the manner set down in current regulations.
 6. Just one foreign currency account is permitted per company and per project, and maintenance or financing of negative balances is prohibited, even if such balances are only occasional.
 7. The foreign currency account dealt with in this section may only be opened and operated by the company that is cumulatively responsible for projects in which implementation and development were initiated as of September 10, 1999 as well as in which those resources reserved to implementation and development of such projects began as of September 10, 1999 and have been duly registered with the Central Bank of Brazil.
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8. In the case of delegation to a business consortium, all of the participating companies may be holders of foreign currency accounts provided that they earn revenues consequent upon the activities specified in paragraph 1 of this section.
9. The company constituted with the specific objective of managing the consortium may also be the holder of a foreign currency account, which may receive resources exclusively from the participating companies to be utilized to honor commitments abroad related to the project.
10. In the case in which the lead company is not constituted with the specific objective of managing the consortium, but is an active participant in project execution, that company may be the holder of a second foreign currency account which can be utilized to receive deposits restricted exclusively to the resources of the companies participating in the consortium to be used to honor commitments abroad related to the project.
11. The deposits dealt with in paragraphs 9 and 10 above are effected exclusively in foreign currency through bank transfers, in which case exchange contracting is dispensed with when the transfers occur among the accounts cited in this section.
12. Prior to opening the account, the party interested in opening and operating the foreign currency account must submit correspondence indicating the authorized bank where the account will be maintained, together with documentation corroborating the delegation dealt with in paragraph 4, to the Central Bank of Brazil/ Department of Financial System Monitoring and Information Management - Desig.
13. In the hypothesis of delegation prior to September 10, 1999, in order to verify the provision in paragraph 7 of this section, the interested party must also submit to Central Bank of Brazil/Desig, a declaration from the National Electric Energy Agency – ANEEL or the National Petroleum Agency - ANP or, furthermore, from the state entity responsible for such delegation, in the sense that project implementation and development have occurred as of the date cited.
14. The authorized bank must comply with the following procedures for the opening and operation of the foreign currency account:
 - a) the interested party must submit a statement of position from the Central Bank of Brazil/ Desig that the company is covered by the provisions in Resolution no. 2644, of 1999;
 - b) the exchange operation carried out to obtain the foreign currency for deposit in the foreign currency account must be classified as to its nature under "55567 - SHORT-TERM BRAZILIAN CAPITAL - Deposits in Foreign Currency account in the country";
 - c) for purposes of settlement of commitments and liabilities abroad, the holder of the account must take steps to see to the simultaneous formalization of purchase exchange contracts, classified as to nature under "55567 - SHORT-TERM BRAZILIAN CAPITAL - Deposits in Foreign Currency account in the country", as well as sale classified under the nature corresponding to the commitment or liability abroad, depending on the case in question;
 - d) the exchange operations dealt with in this paragraph are contracted for immediate settlement.

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SECTION : 7 - Foreign Individuals Temporarily in Brazil and Brazilians Resident Abroad

1. Foreigners temporarily in the country and Brazilians resident abroad may maintain only one account per currency in a single bank, per locality.
2. Such accounts are operated through orders or checks, noting that:
 - a) such accounts may only be opened and replenished by bank transfer from abroad;
 - b) negative balances are prohibited.
3. The depository banks may accept checks issued against such accounts and received in charging operations from bankers abroad or from banks in the country authorized to operate on the exchange market.
4. The banks may also accept requests from the account holders to:
 - a) withdraw or issue payment orders in foreign currency abroad;
 - b) effect payments of commitments in the country in national currency;
 - c) convert national currency.
5. In the hypotheses of lines “b” and “c” of the previous paragraph, the pertinent operations must always be preceded by the corresponding purchase of foreign currency by the bank authorized to operate on the exchange market.

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SECTION : 8 - Insurance Societies, Reinsurance Societies and Reinsurance Brokers

1. The opening and maintenance of foreign currency accounts in a bank authorized to operate on the foreign exchange market by insurance companies, including export credit insurance companies, local reinsurers, admitted reinsurers and reinsurance brokers are permitted, observed the regulation of the National Private Insurance Council (CNSP).
 2. Operation of a foreign currency account in the name of any insurance company, local reinsurer or admitted a reinsurer is restricted to:
 - a) reception and payment of premiums, indemnities, recoveries of credits and other amounts foreseen in the insurance, reinsurance, retrocession and co-insurance contracts formalized in foreign currency;
 - b) earnings on investment of existing balances, observed the regulation on investment of the guarantee resources;
 - c) reception of deposits for purposes of maintaining the minimum account balance, as established by CNSP in the case of admitted reinsurer, observed that the withdrawal of the resources destined to maintain the minimum balance will be permitted only after the Private Insurance Administration (Susep) has release the linkage.
 3. (Revoked) Circular no. 3376/2008
 4. Investment of the resources reserved to guarantee the technical provisions linked to foreign currency operations of insurance companies and local reinsurers and investment of the resources required to guarantee the obligations of an admitted reinsurer in the country are subject to specific regulation.
 5. (Revoked) Circular no. 3376/2008
 6. (Revoked) Circular no. 3376/2008
 7. (Revoked) Circular no. 3376/2008
 8. Operation of a foreign currency account by a reinsurance broker is restricted to the transit of amounts referring to premiums, indemnities and other amounts foreseen in reinsurance contracts formalized in foreign currency, observed that the amounts in foreign currency relative to the remuneration of the reinsurance broker must be immediately converted into reals by means of contracting and settlement of a foreign exchange operation.
 - 8-A. Resources registered in the foreign currency accounts as dealt with in this section may be freely converted to reals, by means of contracting and settlement of foreign exchange operations, under the regulation in effect, except for the amounts relative to the investment of the resources reserved to guarantee the technical provisions which conversion to reals is prohibited.
 - 8-B. Contraction of foreign exchange operation for transfers between accounts as dealt with in this section is not required.
 9. (Revoked) Circular no. 3376/2008
 10. Financing and maintenance of negative balances in the account as dealt with in this section are prohibited.
 11. (Revoked) Circular no. 3376/2008
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12. Loss of accreditation by Susep implies loss of the right to maintain a foreign currency account, and the obligation to take measures to close such an account and to convert any balance that may exist into Brazilian real within five business days, through an exchange operation as determined by the regulations in effect.
13. (Revoked) Circular no. 3376/2008
14. (Revoked) Circular no. 3493/2010
15. (Revoked) Circular no. 3493/2010
16. For purposes of payment, in the country, of indemnities referring to insurance contracted in the country in foreign currency, the insurance company must issue payment order in foreign currency directly to the beneficiary, which will formalize and/or settle the foreign exchange contract:
 - a) purchase, with the corresponding nature of operation stated in RMCCI 1-8-2-2, in case of export credit insurance; or
 - b) purchase, classified as to nature under "25119 - INSURANCE - Other Insurance - Indemnities, in all other cases. (NR)
17. (Revoked) Circular no. 3376/2008
18. Contracting of exchange referring to the inflows of insurance accepted from abroad is permitted up to the final business day of the month in the overall amount of the values deposited into the account of the insurance company over the course of the month, through simultaneous formalization of purchase exchange contracts classified as to nature under "25102 - INSURANCE - Other Insurance - Premiums" and sale, classified as to nature under "55567 - SHORT-TERM BRAZILIAN CAPITAL - Deposits in Foreign Currency account in the country". (NR)
19. (Revoked) Circular no. 3376/2008
20. Contracting of exchange representative of the indemnities referring to insurance accepted from abroad in which the beneficiary is resident, domiciled or headquartered abroad, may be formalized up to the final business day of the month in the overall amount sent abroad over the course of the month, through simultaneous formalization of purchase exchange contracts classified as to nature under "55567 - SHORT-TERM BRAZILIAN CAPITAL - Deposits in Foreign Currency account in the country" and sell exchange contracts, classified as to nature under "25119 - INSURANCE - Other Insurance - Indemnities". (NR)

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SECTION : 9 - Carriers Resident, Domiciled or Headquartered Abroad

1. The opening and maintenance of foreign-currency deposit accounts in a bank authorized to operate on the exchange market by transportation companies resident, domiciled or headquartered abroad are permitted on the basis of Decree no. 42820, of December 16, 1957, and Resolution no. 3222, of July 29, 2004, and such accounts may be replenished with resources resulting from the conversion of national currency earned in the country as a result of their activities.
2. In exchange contracts formalized for purposes of transfers abroad of revenues earned in the country by transportation companies resident, domiciled or headquartered abroad, temporary retention of amounts estimated for future utilization in payment of expenses incurred in the country is permitted.
3. The exchange contracts cited in the previous paragraph are settled at the full value contracted for immediate effect, though it is permitted to send money orders abroad in amounts below the value of the corresponding exchange contract with the difference being utilized within 90 days as of the date of exchange contracting for purposes of payment of expenses incurred in the country by the transportation company resident, domiciled or headquartered abroad, with the respective exchange contracts being formalized at the time of payment of such expenses according to the terms of the regulations in effect.
4. For purposes of calculating the amounts in foreign currency referring to spending incurred in the country as referred to in the previous paragraph, any rate of exchange between the minimum and maximum rates available on Sisbacen in the period of permanence of the transportation vehicle in national territory may be utilized at the discretion of the parties involved.
5. Should the amount estimated for current expenditures as dealt with in paragraph 2 above be greater than the amount effectively spent in Brazil, a new payment order must be sent abroad in an amount equivalent to that not utilized in the country, within the period of 90 days cited above.
6. The existence of negative balances in the account dealt with in paragraph 1 and for the amounts retained as treated in paragraph 2 is prohibited.

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SECTION : 10 - Agents Authorized to Operate in the Foreign Exchange Market

1. The banks authorized to operate in the foreign exchange market can open and maintain accounts in foreign currencies in the name of financial institutions and other institutions authorized to operate in the country by the Central Bank of Brazil, authorized to operate in the foreign exchange market.
2. The tourism agencies that still hold authorization by Central Bank of Brazil to operate in the foreign exchange market can maintain only one account in foreign currency per locality in banks authorized to operate in the foreign exchange market, regarding the balance maintained in this account integrates the operational limit of the tourism agency.
3. The accounts referred in this section are operated through orders or checks, duly observing the following:
 - a) they must be recorded by depositary banks under the specific Cosif heading;
 - b) they may only be opened and replenished with foreign-currency resources;
 - c) negative balances are prohibited.
4. As debits against these accounts, the depositary banks may:
 - a) accept checks against such accounts, received as charging instruments from bankers abroad or banks in the country authorized to operate on the exchange market;
 - b) accept requests from their respective account holders for purposes of:
 - I - withdrawals or issues of payment orders in the foreign-currency abroad;
 - II - payments of commitments in the country in national currency;
 - III - conversions into national currency.
5. The transactions mentioned in indents II and III of line “b” of the paragraph 4 of this section must always be preceded by the corresponding purchase of foreign currency by a bank authorized to operate in the foreign exchange market.

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TÍTULO : 1 - Foreign Exchange Market

CAPÍTULO : 14 - Account in Foreign Currency

SEÇÃO : 11 - (Revoked)

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TÍTULO : 1 - Foreign Exchange Market

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SEÇÃO : 12 - Subsidiaries and Branches, Abroad, of Brazilian Financial Institutions

1. The banks authorized to operate in the foreign exchange market must open and maintain specific account in foreign currency in the name of subsidiary or branches, abroad, of Brazilian financial institution that has granted a loan from the Central Bank of Brazil in accordance to article 2º-A of Resolution no. 3672, of 2008, included by Resolution no. 3689, of 2009.