

RESPONSIBILITIES OF THE NATIONAL BANK OF POLAND RESULTING FROM THE FOREIGN EXCHANGE ACT

1. FOREIGN EXCHANGE PROVISIONS

Foreign exchange regulations, which constitute part of the financial legislation, are laid down

in the Foreign Exchange Act of 27 July 2002, hereinafter referred to as “the Act”, and in secondary legislation made under authority contained in the Act (listed in Enclosure No. 1). Legislative initiative in matters of foreign exchange belongs to the Minister of Finance, who is the body competent within the government administration to issue binding interpretations of this law.

The tasks of the President of the NBP as stipulated by the Act, consist in making decisions on matters connected with:

- granting of individual foreign exchange permits,
- maintenance of a register of bureaux de change,
- performing control of foreign exchange turnover – for definition, see Article 2 paragraph 1 points 16 -18 of the Act.

The Act abolishes restrictions in foreign exchange turnover between the Republic of Poland and Member States of the European Union (EU), as well as introduces freedom in foreign exchange turnover with countries of the European Economic Area and the Organisation of Economic Cooperation and Development (EU, EEA and OECD countries are listed in Enclosure No. 2). In foreign exchange legislation, the EEA and OECD countries are treated on equal terms with EU Member States.

Foreign exchange restrictions

The Act imposes foreign exchange restrictions, i.e. performance of certain actions requires a relevant foreign exchange permit.

Restrictions in foreign exchange turnover provided for by the Act refer to transactions with so called third countries, i.e. countries that are not EU Member States, and are not members of the EEA or the OECD. The restrictions concern the following areas:

- transfer of funds designated to finance economic activity, including real estate purchase,
- transactions in securities with a maturity up to one year,
- transactions in debt claims,

- opening of bank accounts.

Responsibilities imposed by the Act

Apart from the above mentioned foreign exchange restrictions, the Act imposes such obligations as:

- **making a declaration** in writing to customs or border guard authorities of importation into or exportation from the country of foreign exchange gold and platinum, irrespective of the amount, and of domestic and foreign means of payment, should the aggregate amount thereof exceed the equivalent of EUR 10,000. This obligation does not apply to residents or non-residents crossing borders within the Schengen area;
- **presenting** to customs or border guard authorities – on demand – foreign exchange and domestic means of payment imported into or exported from the country;
- **making** international money transfers and domestic settlements in respect of foreign exchange turnover via authorised banks, should the amount transferred or settled exceed the equivalent of EUR 15,000;
- **providing** – upon the request of the authorised bank – information on foreign exchange turnover performed through this bank, in particular concerning the specific purpose of the funds being subject to the turnover;
- **provision** by natural persons and entrepreneurs engaged in cross-border foreign exchange transactions as well as those performing bureaux de change activities to the NBP of data required for the preparation of the balance of payments and international investment position;
- the above mentioned participants engaged in foreign exchange turnover are obliged to **store** documents relating to the turnover for five years, starting from the end of the calendar year in which the foreign exchange transaction took place or bureaux de change activities were performed.

2. FOREIGN EXCHANGE PERMITS

The restrictions and obligations laid down in the Act may be abolished by granting **general or individual foreign exchange permits**

General foreign exchange permits are granted by the minister responsible for public finance by way of an ordinance, while individual foreign exchange permits are granted by the President of the NBP.

General foreign exchange permits

General foreign exchange permits are set out in the Ordinance of the Minister of Finance of 20 April 2009, on General Foreign Exchange Permits, and they provide for, in particular, facilitations in foreign exchange turnover with BIT countries (Bilateral Investment Treaties), i.e. countries with which the Republic of Poland has signed binding agreements on mutual support and protection of investment, and which are not members of either EU, EEA or OECD. On equal terms with BIT countries are treated the third countries with which the European Communities and their Member States have concluded agreements – which are also binding for the Republic of Poland – on partnership and cooperation, agreements establishing association as well as other similar agreements providing for arrangements obliging countries to ensure free flow of capital inasmuch this flow is connected with making direct investment, winding up of such investment or transfer of income gained from such investments.

Individual foreign exchange permits

In cases where no general foreign exchange permit has been granted, restrictions and obligations laid down in the Act may be departed from by virtue of individual foreign exchange permits. Matters relating to granting individual foreign exchange permits are resolved by the President of the NBP by way of an administrative decision to which the provisions of the Code of Administrative Proceedings of 14 June 1960 shall apply as appropriate.

Submission of applications for individual foreign exchange permit

1. Applications for individual foreign exchange permits can be filed directly with the National Bank of Poland or mailed to the following address: **Narodowy Bank Polski, Departament Operacji Krajowych, ul. Świętokrzyska 11/21, 00-919 Warszawa.**
2. The application in the form of a letter of request should include the following particulars: the name and address of the applicant, the substantiated request as well as the requested validity time of the permit.
3. If the applicant is an entrepreneur the application should be signed and stamped by the person authorised to make representations on behalf of this entrepreneur: in the case where the application is filed by a plenipotentiary or a proxy, the authority thereof to make representations on behalf of the entrepreneur should be documented.
4. If the applicant is a natural person who does not operate a business and the application is filed by a plenipotentiary, an appropriate power of attorney should

be attached to the application.

5. In the case of entrepreneurs, a duplicate of due extract from the National Court Register or a certificate of entry in the register of business activity should be attached to the application.
6. The application should include the REGON number – for entrepreneurs or the PESEL number – for natural persons.
7. Documents in support of the party's application may be also attached.
8. As stipulated by the Act of 16 November 2006 on stamp duty, a proof of payment of stamp duty should be attached to the application:
 - a) for granting an individual foreign exchange permit – PLN 113,
 - b) for permit alteration, if the change refers to the extension of validity time or extension of the scope of activity – PLN 56.50,
 - c) for filing the document confirming the granting of power of attorney or proxy – PLN 17.
9. Stamp duty should be paid to:

Centrum Obsługi Podatnika

21 1030 1508 0000 0005 5000 0070

Further information concerning individual foreign exchange permits may be obtained from the NBP, at the following telephone numbers: (0048) 22 185-13-94 or 22 185-43-60.

3. ACTIVITIES OF BUREAUX DE CHANGE (Currency exchange operations)

Under the provisions of the Act, the activities related to currency exchange operations constitute regulated activity within the meaning of the Act of 6 March 2018 on the Law of Entrepreneurs, and have to be recorded in a register.

The register shall be maintained by the President of the NBP.

Bureaux de change operations may be performed by a natural person bearing a certificate of clean criminal record with respect to fiscal offences or offences committed to gain financial or personal benefit, or by a legal person or a business organisation lacking legal personality, whose every member of the respective authority (in the case of joint stock or limited companies – a member of the management board, supervisory board or auditing commission) or partner holds such a certificate.

The requirement of a clean criminal record specified above also applies to the person directly performing currency exchange operations. In addition, such persons are required to have professional qualifications to perform these operations, i.e. a

certificate of course completion covering issues related to the conduct of currency exchange operations or at least one-year experience of working in a bank in a position directly involving foreign currency transactions.

Entrepreneurs may suspend carrying out currency exchange operations for a period no longer than 2 years. They are obliged to notify the President of the NBP of the cessation, suspension or resumption of currency exchange operations.

The necessary equipment of the premises to be used for the performance of currency exchange operations, as well as the manner in which records be kept and currency exchange purchase and sale receipts issued to the customer are specified in the Ordinance of the Minister of Finance of 24 September 2004.

The performance of currency exchange operations in contravention of the terms and conditions laid down in the above mentioned provisions is prohibited. In particular, it is unacceptable to conduct purchase or sale of foreign currency in a manner other than a continuous offering of such transactions in the premises designated for performing such operations, which meet the relevant technical and organisational requirements and within the stated business hours.

Pursuant to the Act of 1 March 2018 on Counteracting Money Laundering and the Financing of Terrorism, an entrepreneur carrying out currency exchange operations is an obliged institution, whose responsibilities are regulated by the above mentioned Act.

Register of bureaux de change

Entry in the register of bureaux de change is effected at the NBP Head Office within 7 days of the receipt of a complete application or within 7 days of receipt of a supplemented application or statement.

Deletion or modification of an entry shall also be considered an entry in the register.

Entry in the register shall be made upon a written request by the entrepreneur and shall be confirmed by a relevant certificate issued to the applicant. Further information may be obtained by calling the following numbers: (00 48) 22 653-16-45, 22 653-43-60.

Accepting applications for entry in the register of bureaux de change

1. Applications for entry in the register of bureaux de change are accepted by the **NBP regional branches responsible for currency exchange operations in the applicant's area of operation**. The list of regional branches is available on the following website: <https://kantor.nbp.pl>.

Applications may be filed personally or mailed to the address of the branch.

2. **Specimen application form is set out in the Ordinance of the Minister of Finance of 18 August 2004 on the Specimen Application Form for Entry in the Register of Bureaux de Change.**
3. The specimen application form may be downloaded from the NBP website <https://kantor.nbp.pl>.

The application shall be appended with a written declaration of the entrepreneur (see Art. 17 paragraphs 2-3 of the Act).

The specimen form of the declaration to be downloaded from the NBP website <https://kantor.nbp.pl>.

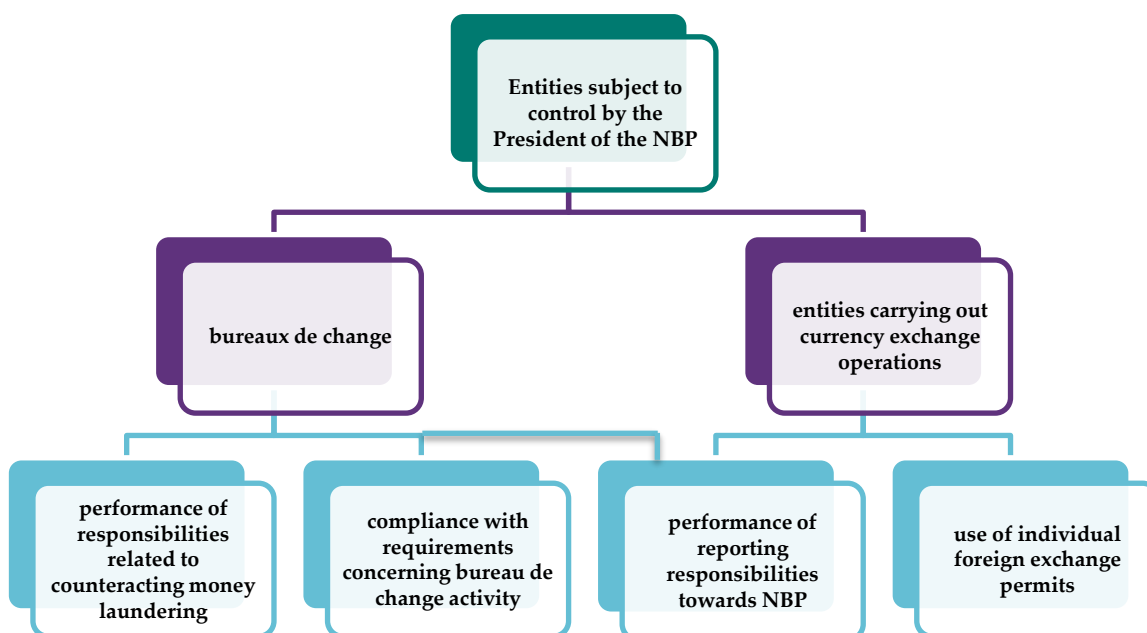
4. Should the application be filed by an attorney or proxy, the authority thereof to make representations on behalf of the entrepreneur should also be attached.
5. The following evidence of stamp duty payments should be attached to the application:
 - a) for entry in the register of regulated activity – PLN 1087,
 - b) for modification of entry in the register of regulated activity, if it refers to extension of the scope of activity – PLN 543.50,
 - c) for filing a document confirming granted power of attorney or proxy – PLN 17.
6. The stamp duty referred to in:
 - item 5, letter a and b should be paid to:

Centrum Obsługi Podatnika
21 1030 1508 0000 0005 5000 0070
 - item 5, letter c should be paid to tax authority appropriate for the place of filing the document.

4. CONTROL OF FOREIGN EXCHANGE TURNOVER

The scope and subject matter of control of foreign exchange turnover performed by the President of the NBP is regulated by the Foreign Exchange Act of 27 July 2002.

The diagram below presents entities subject to control by the President of the NBP and the scope of control



If the process of control gives rise to a reasonable suspicion of an offence or crime having been committed by the controlled entity or another entity, the President of the National Bank of Poland, acting in accordance with the regulations in force, shall notify the relevant tax office of this fact. Failure to meet the obligations imposed by the law on counteracting money laundering and financing of terrorism is notified to the prosecutor's office.

In addition, should a control of an entrepreneur performing currency exchange operations reveal any the following:

- gross violation of provisions concerning the performance of currency exchange operations,
- submission by the entrepreneur (see Art. 17 item 2-3 of the Foreign Exchange Act) of a false statement,
- the entrepreneur's failure to remove, within a defined period of time, contraventions of the requirements for the conduct of currency exchange operations.

The President of the NBP may issue a decision prohibiting the entrepreneur to carry out foreign currency exchange operations and strike off the related entry from the register. The entrepreneur shall become eligible for re-entry in the register no earlier than on the elapse of 3 years from being struck off the register.

Provisions of the Act of 10 September 1999 – Penal and Fiscal Code shall apply to fiscal crimes and fiscal offences against foreign exchange turnover.

For further information, please call: (00 48) 22 653-20-60, 22 653-27-54 or 22 653-26-21.

Prepared by Domestic Operations Department – Foreign Exchange Control Division

Enclosure No. 1**FOREIGN EXCHANGE REGULATIONS**

- Foreign Exchange Act of 27 July 2002
- Ordinance of the Minister of Finance of 20 April 2009 on General Foreign Exchange Permits
- Ordinance of the Minister of Finance of 29 June 2007 on the Procedure for Confirming Import and Export of Foreign Exchange or Domestic Means of Payment, and the Specimen Declaration Forms concerning import into the country and export abroad of these values and means of payment
- Ordinance of the Minister of Finance on the Technical and Organisational Conditions for the Conduct of Bureau de Change Activities, the Detailed Manner of Maintaining Records, and Issuing Evidence of the Purchase and Sale of Foreign Exchange, 24 September 2004
- Ordinance of the Minister of Finance of 18 August 2004 on the Specimen Form of the Application for Entry in the Register of Bureaux de Change

Enclosure No. 2

COUNTRIES BELONGING TO:			
No.	EU	EEA	OECD
1	Austria	Austria	Australia
2	Belgium	Belgium	Austria
3	Bulgaria	Bulgaria	Belgium
4	Croatia	Croatia	Canada
5	Cyprus	Cyprus	Chile
6	Czech Republic	Czech Republic	Czech Republic
7	Denmark	Denmark	Denmark
8	Estonia	Estonia	Estonia
9	Finland	Finland	Finland
10	France	France	France
11	Germany	Germany	Germany
12	Greece	Greece	Greece
13	Hungary	Hungary	Hungary
14	Ireland	Iceland	Iceland
15	Italy	Ireland	Ireland
16	Latvia	Italy	Israel
17	Lithuania	Latvia	Italy
18	Luxembourg	Liechtenstein	Japan
19	Malta	Lithuania	Korea
20	Netherlands	Luxembourg	Latvia
21	Poland	Malta	Lithuania
22	Portugal	Netherlands	Luxembourg
23	Romania	Norway	Mexico
24	Slovakia	Poland	Netherlands
25	Slovenia	Portugal	New Zealand
26	Spain	Romania	Norway
27	Sweden	Slovakia	Poland
28		Slovenia	Portugal
29		Spain	Slovak Republic
30		Sweden	Slovenia
31		United Kingdom	Spain
32			Sweden
33			Switzerland

34	Turkey
35	United Kingdom
36	United States