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In focus: Law on Amendments and Supplements to the Law on Foreign Exchange Operations

At the Third session of the First regular Assembly in 2018, the National Assembly of the Republic of Serbia adopted the Law on Amendments and Supplements to the Law on Foreign Exchange Operations (“Official Gazette of the Republic of Serbia” no. 30/2018, hereinafter the “**Law**”), which entered into force on 28.04.2018, except for the provisions of Articles 13 to 17, Article 19 and Article 20 paragraph 8 of the Law which shall be effective as of 01.01.2019.

The primary objective of adopting the Law is to ensure the free movement of capital that relates to portfolio investments and financial credits and loans with a maturity of less than one year, as well as the harmonization of legislation with international standards in the field of prevention and detection of money laundering and terrorist financing.

In order to ensure implementation of the above goals, the Law, among other things provides that:

- residents may freely invest in long-term debt securities issued by legal entities with headquarters in EU Member States;
- residents – legal entities, entrepreneurs and natural persons may freely invest in foreign short-

- term securities issued by the European Union, EU Member States, international financial organizations and development banks or financial institutions in which EU Member States participate, as well as legal entities having their seat in those countries;
- banks may, without limitation, invest in short-term securities issued by the European Union, EU Member States and members of the OECD, as well as international financial organizations and development banks or financial institutions in which EU Member States and members of the OECD participate, as well as legal entities having their seat in those countries;
- non-residents from EU Member States may freely invest in short-term securities in the Republic; and
- residents – natural persons and branches of foreign legal entities may take out short-term loans with a non-resident lender with headquarters or residence in an EU Member State.

The Law also eliminates the previously prescribed condition of majority ownership in granting financial loans to non-residents and providing collateral for loan transactions between two non-residents,

and now it prescribes that a resident – legal entity may grant financial loans to a non-resident – debtor, as well as give guarantees and other security under credit transactions abroad and credit transactions between non-residents under the conditions and in the manner prescribed by the National Bank of Serbia, by which regulation these transactions may be limited solely in order to preserve the public interest and/or financial stability.

Furthermore, the Law has expanded the number of cases in which residents – legal entities can obtain guarantees and bonds from non-residents, in matters of importing goods and services, as well as for the matter of carrying out non-resident investment activities in the Republic of Serbia.

On the other hand, in order to further improve the digital and information sector in the Republic of Serbia, it is provided for that certain credit operations can be concluded in electronic form, i.e. on a permanent data carrier that allows the storage and reproduction of original data in unchanged form, as well as that residents – humanitarian organizations, may receive funds from abroad through the issuer of electronic money, on the basis of donations for humanitarian purposes.

At the same time, it is envisaged that payment, collection and transfer in the Republic of Serbia can also be made in foreign currency for the purchase of software and other digital products on the Internet that are delivered exclusively via telecommunication, digital or IT equipment, but only on condition that payment is made by using a payment card or electronic

money through a payment service provider based in the Republic.

Finally, the Law stipulates that, from 1 January 2019, the National Bank of Serbia shall take over the competencies of the Ministry of Finance – the Tax Administration for carrying out the activities of issuing and withdrawing authorizations for performing exchange transactions, matters of issuing certificates for performing exchange transactions and controlling exchange and foreign exchange operations of residents and non-residents, who, under the Law on Tax Procedure and Tax Administration, are under the jurisdiction of the Ministry of Finance – Tax Administration.

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