

EXCHANGE MARKET

According to foreign exchange regulations 3/1997, subsequently amended, the national currency became convertible as from 30 January 1998. The so-called "Capital account" transactions need to be approved by, or notified to the National Bank of Romania, depending on their exact nature.

The exchange rate of the national currency is determined on the interbank foreign exchange market that was established in August 1994 as a permanent market, where foreign currency can be bought and sold in either spot or forward transactions against domestic currency, at exchange rates freely determined by intermediaries authorized by the National Bank of Romania. Based on the currency exchange rates used on the interbank market, the NBR establishes the daily exchange rate, which is not compulsory.

Foreign exchange rules stipulate that residents may conclude transactions on Romanian territory only in the local currency, the "leu", with its symbol "ROL". Transactions between residents and non-residents may be performed in foreign currency through accounts opened at Romanian banks or foreign banks authorized to operate in Romania. The exceptions to the above rules are strictly limited by law. Romanian residents are entitled to freely hold and use their foreign currency proceeds derived from legal transactions and to make direct payments out of their foreign currency accounts for current account operations such as the import of goods or services, payment of dividends, repatriation of profits.

Financial and capital operations are typically subject to an authorization granted by the National Bank, except for financial loans and leasing operations (with a period of more than 1 year) which are to be simply notified to the NBR for registration in the Private External Debt Registry.

The "leu" is characteristic by domestic convertibility. Resident companies can sell or buy foreign currency only on the interbank foreign exchange market, the transaction being performed by the company's bank. Each order for buying foreign currency must be justified by supporting documents (external contracts). The National Bank and Government Regulations also establish the obligation for companies and banks to make every effort to repatriate the foreign currency derived from international transactions as quickly as possible.

Resident and non-resident individuals are allowed to freely buy and sell foreign currency from authorized intermediaries.

Typically, Romanian residents are allowed to freely carry out exchange operations.

The National Bank of Romania issued circular 26/2001 and circular 37/2002, modifying Regulation 3/1997 concerning foreign exchange operations.

Thus, for operations such as "capital and financial transfer" as listed hereafter, the authorization of the NBR is no longer required:

- ▶ direct investments abroad by residents
- ▶ real estate investments abroad by residents
- ▶ admission of securities and placement on a foreign capital market
- ▶ financial loans (to be reimbursed in more than 1 year) granted by residents to non-residents
- ▶ guarantees secured by residents in favor of non-residents, provided that the guaranteed operation is not concluded between two non-residents
- ▶ guarantees granted by non-residents to residents
- ▶ transfers related to insurance contracts
- ▶ short-term loans granted by non-residents to residents
- ▶ transfers of capital representing gifts, legacies, transfers of assets
- ▶ operations in current and deposit accounts opened abroad in the national currency by residents, in the countries with which Romania has concluded regional convertibility arrangements,
- ▶ medium or long-term financial credits and loans granted by residents to non-residents,
- ▶ import and export of financial assets

For the following capital currency operations carried out by banks on their own behalf, NBR authorization is not required:

- ▶ transactions with instruments specific to the foreign monetary market
- ▶ guarantees and other auxiliary financial incentives
- ▶ foreign exchange, current accounts and deposit operations placed abroad

The NBR must be notified in cases of trade credits with reimbursement periods longer than 1 year, financial credits with reimbursement periods longer than 1 year granted by non-residents to residents, including financial leasing, as well as in the case of certain guarantees or securities related to the aforementioned

operations. Notification does not imply the approval of the NBR and it is made only for statistical purposes (the NBR monitors the status of the payment balance at a national level).

Non-residents may acquire, hold and use payment instruments, listed securities and other types of placement instruments in local currency (ROL). Non-residents may also open current accounts in ROL and in foreign currency as well as deposit accounts in foreign currency without the approval of the NBR. Nevertheless, deposit accounts in ROL, opened by non-residents in Romania are subject to NBR approval. Transactions in local currency /ROL between residents and non-residents are forbidden, with the exception of the following:

- ▶ payments made by residents to non-residents, as profit, dividends, interest or other incomes deriving from capital transactions authorized by the law or the NBR
- ▶ payments made by non-residents to residents , during their stay in Romania
- ▶ current foreign exchange operations between residents and non-residents in cases of diplomatic entities

ROL amounts obtained by non-residents can be changed into foreign currency if supporting documents are provided. Residents must transfer or repatriate all amounts in foreign currency and/or local currency obtained from operations abroad, except for taxes, commissions. The repatriation obligation does not apply to:

- ▶ banks-for activities carried out under an operating authorization
- ▶ residents-companies authorized by the NBR to hold foreign currency accounts abroad
- ▶ residents-individuals deriving foreign currency incomes abroad

Residents may open foreign currency or ROL accounts abroad only further to the authorization of the NBR. The following categories of residents are not bound by this obligation:

- ▶ banks –for activities carried out under the operating authorization
- ▶ representative offices, agencies, offices of Romanian legal persons who are not registered abroad as legal persons , for the current expenses
- ▶ Romanian diplomatic entities

- ▶ Natural and legal persons owning real estate, for the current taxes and expenses related to the administration of the property
- ▶ Individuals during their stay abroad
- ▶ If repatriation is temporarily prohibited under the legislation of the respective source country

Payments between residents are made in local currency, if this operation takes place on Romanian territory. Foreign currency operations on Romanian territory are allowed to the following categories of residents:

- ▶ Banks – for foreign currency operations stipulated in their operating authorization
- ▶ Companies carrying out commissioning activities related to foreign trade contracts
- ▶ Natural and legal persons –for foreign currency operations deriving from commercial activities undertaken within free zones
- ▶ Natural and legal persons expressly authorized by the law
- ▶ Individuals –for occasional hard currency operations

The banks are bound to correctly implement the present regulations, being entitled to request from their clients all necessary information and supporting documents .The NBR will check and supervise compliance with the foreign exchange regulations. When entering or leaving Romania, individuals must declare at the border any amount exceeding USD 10,000. Any amounts not declared will be confiscated. Individuals are allowed to bring in or take out of Romania amounts of maximum ROL 500,000.