NATIONAL RESERVE BANK OF TONGA

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Foreign Exchange Control Directive effective 1st November 2018

To implement the requirements of the Foreign Exchange Control Act 2018, the Reserve Bank in accordance with sections 6(2) and 32 of the Foreign Exchange Control Act 2018, prescribes the exchange control requirements in a Directive referred to as the Exchange Control Directive.

Exchange Control Directive

The Exchange Control Directive is an expanded version of the Exchange Control Policy Guidelines that was implemented by the banks and the foreign exchange dealers (money transfer operators) under the repealed FEC Act 1963 and FEC Regulations 1965. The Exchange Control Directive is issued by the Reserve Bank for use by authorised persons such as banks, foreign exchange dealers and money changers which was effective on 1st November 2018.

The Exchange Control Directive provides a level playing field in the foreign exchange market, improves the consistency of the exchange control process in the financial system, improves the accuracy of balance of payments statistics and assist with the protection of the country's foreign reserves.

The Exchange Control Directive lists all the documentary requirements that banks and foreign exchange dealers are required to sight, stamp and retain a copy for all foreign exchange dealings that have been presented and paid. It also lists the limit for each type of payment that banks and foreign exchange dealers are delegated to approve. Exchange Control Application forms (Form A – Form F) for all types of foreign exchange payments or earnings are also attached in the Exchange Control Directive. The Exchange Control Directive will be reviewed annually to reflect the latest developments in the market.

The Directive clarifies the following:

1. **Residents can pay for Imports of Goods & Services under the Advance Import payments category**

The Foreign Exchange Control Act 2018 does not restrict any payments for imports of goods. The Exchange Control Directive list the applicable documentary requirements for import payments which are invoices and custom import entry forms. The banks and foreign exchange dealers can process the payments of up to T$100,000 and any payments above this threshold will be subject to the Reserve Bank's prior approval. To expedite the payment of imports, import payments are permitted based on invoices, the custom import entry forms can be provided after the goods have arrived in Tonga.

2. **Travelling Overseas with cash**

Similar to that in the past, for members of the public travelling overseas, the removal of Tongan pa'anga cash exceeding $10,000 pa'anga or cash in the currency of any other country or countries in any combination that exceeds the value of T$10,000 requires the approval of the Reserve Bank.

3. **Foreign Currency Accounts held in Tonga or Overseas**

The National Reserve Bank of Tonga does not restrict residents from holding a bank account overseas. However, funding of those overseas accounts from local sources are subject to the exchange control requirements. Members of the public can hold foreign currency accounts with the local banks subject to limits and conditions that are set by the Reserve Bank. The opening of all foreign currency accounts requires the prior approval of the Reserve Bank except for accounts of foreign missions and regional or international organisation which is fully delegated to the banks. Applicants are to submit projected inflows and outflows from the accounts. These requirements are to ensure the foreign currency accounts are for operational purposes only and not for investment.

4. Investment in Tonga or Overseas

Banks and foreign exchange dealers can approve applications for transferring of funds for offshore investment by a resident from funds that are sourced locally up to a delegated limit of T$100,000 per application. All applications above T$100,000 needs the prior approval of the Reserve Bank subject to the applicants agreeing to repatriate funds back to their nominated bank accounts in Tonga, when required. All applications are to be accompanied by details of the proposed investment offshore, evidence of source of fund and other relevant supporting documents. With regards to foreign investment in Tonga, all funds sourced from overseas are permitted to be sent out of Tonga subject to evidence that these funds were received in Tonga.

4.1. Return of Offshore Investments

The return of offshore investments is a requirement in the Exchange Control Directive. Residents are required to declare the type of offshore investment and agree to take reasonable steps to realise this investment and repatriate it back to their nominated bank account in Tonga if the foreign reserves fall to critical levels of 2 months equivalent of imports of goods and services. This requirement is only applicable to offshore investments made after the Foreign Exchange Control Act 2018 became effective on 10th July 2018.

4.2. Enforcement of the Return of Offshore Investments

This requirement will only be enforced should the foreign reserves fall to critical levels, equivalent of 2 months equivalent of imports of goods and services. The Foreign Reserves are at very comfortable levels at above 7 months of imports. However, this is a critical policy tool for the Reserve Bank and is part of its contingency plan to assist with its role of managing of the foreign reserves and to maintain internal and external stability.

5. Return of Export proceeds

Exporters are required to declare its exports and agree to repatriate back at least 60% of its export proceeds, to their nominated bank account in Tonga within 6 months from the date of exports. For operational purposes, exporters are permitted to retain not more than 40% of the total export proceeds in a foreign currency account in Tonga or overseas. The Reserve Bank may approve extensions of this period or for the retention of funds in a foreign currency account subject to supporting documents i.e. invoices for the payment of pending imports to be paid from these export proceeds. Banks and Authorised foreign exchange dealers may approve up to T$100,000, to offset an exporters expenses incurred offshore such as pending imports against export proceeds subject to the exporter providing relevant documents such as custom import entries due to be received in Tonga. The purpose of this requirement is to ensure the foreign exchange derived from the export of goods from Tonga can assist with building of our foreign reserves in order to meet the country's foreign exchange obligations. The Directive lists exports that are exempted from the requirements for declaration, realization and repatriation back to Tonga. This requirement on export receipts is currently being discussed with the relevant authorities before the public is duly notified.

6. Reserve Bank's Process of Exchange Control Applications

To ensure payments are made promptly from Tonga, the Reserve Bank has been processing exchange control applications to be ready within a day of submitting a completed application form and all required supporting documents. This process will continue even with the new Foreign Exchange Control Act 2018 coming into force. The Reserve Bank reserves the right to conduct due diligence checks on applicants, require further information, and may not approve any application that does not comply with its Anti-Money Laundering and Counter Terrorist Financing requirements. It should also be noted that tax clearance requirements for payments are imposed and monitored by the Ministry of Revenue & Customs.

7. Amendments to the Foreign Exchange Act 2018

Although there were consultations with relevant stakeholders since 2016 to date, in response to further concerns in terms of the specific references to residents' holding and owning foreign exchange and immovable properties outside of Tonga, the NRBT Board of Directors at their meeting in October 2018 have approved amendments to remove this requirement from the Act and are now being processed by the relevant authorities.

The Reserve Bank will continue to provide an enabling environment for the public including businesses, to conduct their foreign exchange transactions whilst at the same time ensure we are prudently managing our foreign reserves to support the macroeconomic stability of the country.

In order to promote a level playing field for all who comply with the Exchange Control Directives, any non-compliance with the Exchange Control Directives will be dealt with in accordance with the Foreign Exchange Control Act 2018 Section 11(3) and Section 29.

The Reserve Bank wish to seek the public's support and cooperation in ensuring adherence with the requirements of the Foreign Exchange Control Act 2018. For any further details to contact the Reserve Bank. A copy of the Exchange Control Directive and Foreign Exchange Act 2018 can be found on the NRBT's website.

For further details please contact:

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