

Ordinance No. 28

on Information Collected by Banks about Cross-border Transfers and Payments

(Issued by the Bulgarian National Bank on 9 December 1999; published in the Darjaven Vestnik, issue 111 of 21 December 1999; amended, issue 1 of 2000; title amended, issue 59 of 2003; amended, issue 69 of 2003)

Chapter One

Subject

Article 1. (amended; Darjaven Vestnik, issue 69 of 2003) This Ordinance shall determine the procedure for collection of information by banks about cross-border transfers and payments.

Article 2. (amended; Darjaven Vestnik, issue 69 of 2003) Transfers and payments to foreign countries shall be made by commercial banks after declaring the grounds for each cross-border transfer.

Chapter Two

Foreign Exchange Cross-border Transfers and Payments Exceeding BGN 25,000

(title amended; Darjaven Vestnik, issue 69 of 2003)

Article 3. (1) (amended; Darjaven Vestnik, issue 69 of 2003) A resident who wishes to make a foreign exchange transfer or payment to a foreign country exceeding the equivalent of BGN 25,000, shall submit to the bank the following documents:

1. for import of goods and services – a contract, an invoice, a customs declaration or another document giving information on the record of business transactions for the first time, certifying the obligation for payment;

2. for transport, freight, insurance, warehouse and other related expenses on transportation of goods and passengers performed by nonresidents – against presentation of a contract, an invoice or another document certifying the ground for payment;

3. for advance payment agreed upon under items 1 and 2 – a contract, a proforma invoice or another document giving information on the record of the business transaction for the first time shall be attached to the payment order;

4. for reexport payment from intermediaries ordering the transfer where commodities do not enter the country – a document certifying payment received from a foreign country in favor of the person ordering the transfer, if not provided otherwise in the contract;

5. by a decision of domestic judiciary body in favor of nonresidents – against presentation of a Court Decision which has come into effect;

6. by a decision of foreign judiciary bodies – against presentation of a Court Decision which has come into effect, certifying the obligation for payment by residents to nonresidents;

7. for insurance charges, transferred by insurance and reinsurance companies under insurance and reinsurance contracts – against presentation of an Insurance or Reinsurance Contract or another document certifying the occurrence of an insurance event;

8. for education and training abroad – against presentation of an educational status document for the school year and sojourn related to education abroad;

9. for advance payment of visa charges – against a document issued by the Ministry of Foreign Affairs of a country which has no diplomatic or consular representations in Bulgaria, or against a document issued by the diplomatic or consular representations in Bulgaria;

10. (amended; Darjaven Vestnik, issue 69 of 2003) for examinations and medical treatment abroad and related costs thereof – against presentation of an epicrisis from a medical institution;

11. for the financial support of diplomatic and consular representations of the Republic of Bulgaria, as well as other representations of ministries and administrations abroad – against presentation of an Accounting Budget provided by the respective ministry or other administration;

12. for administrative and business expenses of physical and legal persons abroad – against presentation of a Resolution on opening a representative office abroad or a certificate of registration of the representative office, if required by the country where the representative office is located, and an Accounting Budget for such expenses for the respective year;

13. for payment of commissions, charges and advertisements related to traders' businesses, as well as for participation in fairs and exhibitions abroad – against presentation of a Contract or another document certifying the obligation for payment;

14. for bank commissions and fees on domestic banks' operations on account of their customers – against a document certifying a domestic bank's obligation for payment on its customer's operations;

15. for payment of membership fees to international organizations – against presentation of a document issued by the respective international organization;

16. for participation in international competitions, festivals, symposia, conferences, brigades and related activities – against a document issued by the respective foreign organizer;

17. for travelling expenses of resident physical persons abroad – against presentation of a document certifying the travel abroad;

18. for subscription fees to foreign publications – against presentation of a document certifying the amount of the fee, including advertisement in the respective publication;

19. for consultant and legal services abroad – against presentation of a document certifying the price of the service;

20. for payment of pensions abroad – against presentation of a document certifying the pension legality;

21. for financial support of spouses, descendants, ascendants, brothers and sisters abroad – against a declaration of family relatedness and a document certifying the sojourn abroad of the person in whose favor the foreign exchange is being transferred;

22. for establishment of an enterprise abroad, acquisition of an enterprise, assumption of rights of a general partner or acquisition of equity giving right to more than 20 percent of the votes in the General Meeting – against a Memorandum of Association, a contract or another document certifying the establishment or acquisition of the direct investment;

23. (amended; Darjaven Vestnik, issue 69 of 2003) for transfers and payments related to the acquisition of securities – against presentation of documents certifying the acquisition of securities;

24. (amended; Darjaven Vestnik, issue 69 of 2003) for a credit extended for the purpose of a direct investment in a foreign country or related to an agreement for participation in profit distribution – against a contract or another document certifying the credit extension or the respective agreement for participation in profit distribution, and provided the resident is a legal person or a sole proprietor – also against a document certifying the declaration of the credit before the BNB and the initial direct investment.

25. (amended; Darjaven Vestnik, issue 69 of 2003) for an additional investment in a direct investment already made – against a document certifying the declaration before the BNB of the initial direct investment, provided the resident is a legal person or a sole proprietor;

26. for acquisition of real estate – against a document certifying the need for payment.

(2) (amended; Darjaven Vestnik, issue 69 of 2003) A nonresident who wishes to make a foreign exchange transfer or payment to a foreign country exceeding the equivalent of BGN 25,000, shall submit to the bank the following documents:

1. for transfer of revenue arising from foreign investment in this country and from direct investment withdrawal – against presentation of a document certifying the investment or withdrawal thereof and payment of taxes due;

2. for foreign exchange transfer to foreign countries, the amount of which does not exceed the amount of foreign exchange imported in this country via bank – a verified copy of the document certifying the receipt of the transfer shall be attached to the reverse payment order;

3. for transfer of foreign exchange from nonresidents to foreign countries, acquired from disposition with own real estate – against presentation of a copy of the title deed and presentation of the original title deed for verification, or other deeds – entered voluntary partition contract, *et. al.*;

4. for transfer of foreign exchange from nonresidents to foreign countries, acquired from a legator's deposit – against presentation of an inheritance certificate and a bank statement of the legator's account.

(3) In the cases beyond the preceding paragraphs, the person who wishes to make a foreign exchange transfer or payment shall present a document certifying the need for payment to a foreign country.

(4) (amended; Darjaven Vestnik, issue 69 of 2003) In the cases where a resident legal person or sole proprietor makes a transfer or payment to a foreign country related to a financial credit already extended by or to a nonresident, the resident legal person or sole proprietor shall certify by a declaration verified by the BNB the financial credit in compliance with Article 7, para. 5 of the Foreign Exchange Law.

(5) (amended; Darjaven Vestnik, issue 69 of 2003) For transfers or payments to foreign countries, which are not subject to statistical declaring, where the enterprise or company is over 50% state-owned, a document certifying the approval by the competent authority exercising the state's ownership right to the respective legal person shall be attached to the payment order.

(6) (repealed; Darjaven Vestnik, issue 69 of 2003).

Article 4. (amended; Darjaven Vestnik, issue 69 of 2003) In the cases under Article 3, para. 1, items 6, 7, 8, 9, 13, 15, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, documents shall be presented in the respective foreign language, with translation in Bulgarian, upon demand.

Article 5. The lev equivalent of the foreign exchange shall be calculated at the exchange rate of the Bulgarian National Bank for the day of presentation of the payment order.

Article 6. (new; Darjaven Vestnik, issue 69 of 2003) The banks may request from the physical persons to ascertain the presence or absence of domicile in the Republic of Bulgaria under the Foreign Exchange Law by completing a declaration according to the sample form in the Appendix.

Final Provisions

§ 1. This Ordinance is issued pursuant to Article 6, para. 2 of the Foreign Exchange Law, and is adopted by Resolution No. 141 of 9 December 1999 of the Governing Council of the Bulgarian National Bank.

§ 2. (amended; Darjaven Vestnik, issue 1 of 2000) This Ordinance repeals the Ordinance on the Export and Import of Foreign Exchange Valuables (published in the Darjaven Vestnik, issue 9 of 1994; amended, issue 24 of 1996; amended, issues 65 and 74 of 1996, issue 63 of 1999).

§ 3. The Deputy Governor of the Bulgarian National Bank heading the Banking Department shall issue instructions on the enactment of this Ordinance.

§ 4. This Ordinance shall come into force on 1 January 2000.

Amendments

to Ordinance No. 28 on Cross-border Transfers and Payments

(Published in the Darjaven Vestnik, issue 59 of 2003; issue 69 of 2003)

Final Provision

§ 8. These Amendments are issued pursuant to Article 6, para. 2 of the Foreign Exchange Law, and are adopted by Resolution No. 70 of 24 July 2003 of the Governing Council of the Bulgarian National Bank.

Appendix
to Article 6
(new; Darjaven Vestnik, issue 69 of 2003)

DECLARATION
of domicile in the Republic of Bulgaria
(under the Foreign Exchange Law)

The hereinafter signed,,
do hereby declare that:

1. In my capacity as a Bulgarian Citizen I am entitled
to reside within the Republic of Bulgaria
for unlimited periods of time
2. In my capacity as a non-Bulgarian Citizen
- a) I am entitled to reside within the Republic of Bulgaria
for unlimited periods of time under the Law on the
Foreigners in the Republic of Bulgaria
- b) I am not entitled to reside within the Republic of Bulgaria
for unlimited periods of time under the Law on the
Foreigners in the Republic of Bulgaria

Completion instructions: either Item 1 or Item 2 should be ticked. Where Item 2 is to be ticked, only A or B should be specified.

Declarant:
(signature)

Dated this day of in the year of