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IRAQ'S CENTRAL BANK INTRODUCES RIGOROUS REGULATIONS FOR FOREIGN CURRENCY IN CROSS-BORDER TRANSACTIONS

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LEGAL UPDATE

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IRAQ'S CENTRAL BANK INTRODUCES RIGOROUS REGULATIONS FOR FOREIGN CURRENCY IN CROSS-BORDER TRANSACTIONS

The Central Bank of Iraq recently released revised guidelines for foreign currency transactions across borders that aim to curb illicit financial flows, prevent money laundering and terrorist financing, and stabilize the dinar. Effective February 19, 2023, financial institutions facilitating overseas money transfers will need to implement more stringent monitoring and reporting measures.

The updated regulations mandate closer scrutiny of transaction details, customer due diligence, and suspicious activity reporting. Institutions must also maintain detailed records of all cross-border transfers. To avoid penalties and limit repetitional risk, compliance officers should analyse the latest regulations and update policies and procedures to ensure seamless conformity. Robust compliance frameworks have never been more critical as Iraq works to align with international standards and gain greater access to global financial markets.

OVERVIEW OF IRAQ'S CENTRAL BANK NEW REGULATIONS FOR OVERSEAS TRANSFERS

Overview of Iraq's Central Bank New Regulations for Overseas Transfers

In pursuit of stabilizing foreign exchange rates and aligning with anti-money laundering laws, Iraq’s Central Bank has implemented stringent regulations governing cross-border money transfers. These rules, outlined in the Central Bank of Iraq’s new regulation called “Regulations on the Cross Border Transaction for 2023” on the 19 of February 2023 in accordance with Law No. 56 of 2004, aim to streamline the purchase and sale of foreign currency through authorized banking and non-banking financial institutions.

The directives establish a centralized electronic platform through which eligible entities—including registered companies, industrial projects, small enterprises, branches of foreign firms, and investment ventures—may purchase foreign currency for legitimate business purposes.

Participating banks and financial organizations are required to verify customer identities, scrutinize transaction details, and screen all parties against domestic and international sanctions lists before executing money transfers.

To ensure compliance, the Central Bank reserves the right to review all data and documentation related to electronic platform subscriptions. The Bank will permanently bar any bank found transferring funds to sanctioned individuals or groups from accessing the foreign currency sale window (Desk). Beyond reinforcing oversight, these actions intend to facilitate foreign trade by making the currency more readily available to validated beneficiaries at the official exchange rate plus a small margin.

The regulations also obligate participating institutions to safeguard customer information, with data sharing only permitted by court order.

Applications for currency conversion must be submitted at least two business days in advance of scheduled transfers or as mandated by the Central Bank. Only transactions fully conforming to the outlined controls will be approved.

These measures aim to buttress Iraq’s banking system, aligning it with international best practices. The Central Bank strives to enhance the country’s financial stability and security by tightening oversight of cross-border money flows. These regulations reflect Iraq’s ongoing efforts to reform and revitalize its economy by attracting foreign investment through prudent yet business-friendly policies.

ENTITIES ELIGIBLE FOR FUNDING THROUGH THE ELECTRONIC PLATFORM

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In accordance with Central Bank Law No. 56 of 2004 and the new regulation “Regulations on the Cross Border Transaction for 2023”, the Central Bank of Iraq aims to facilitate foreign trade and safeguard financial security through prudent regulations governing cross-border transactions.

To achieve these twin objectives, the Central Bank has identified specific categories of entities eligible to access foreign currency funding through its electronic platform:

1. Registered Companies: All officially registered companies, regardless of industry or ownership structure, are permitted to utilize the platform to finance legitimate business activities, provided they satisfy Know Your Customer (KYC) requirements and supply necessary documentation upon request.

2. Industrial Projects: Ongoing or proposed industrial projects that have obtained proper registration and licensing from the General Directorate of Industrial Development may utilize the platform. Project proponents must furnish details on the nature, scope, and timeline of the initiative.

3. Small Enterprises: Qualifying small enterprises, as defined by the Chambers of Commerce, with a monthly funding cap of $200,000 are eligible for platform access. Owners must provide a notarized contract of incorporation and business details.

4. Branches of Foreign Companies: Registered branches of foreign companies may utilize the platform to fund operations, contingent on fulfilling KYC standards and submitting parent company details.

5. Investment Projects: Investment projects spanning all categories that hold valid licenses from pertinent authorities are eligible, subject to providing comprehensive project information and documentation to establish legitimacy.

The Central Bank retains the right to scrutinize all data and documents submitted by banks and non-banking financial institutions on behalf of clients to validate eligibility.

Unmentioned or ambiguous cases will be reviewed on an individual basis, with final determination by Central Bank management. Strict sanctions, including permanent exclusion from the platform, will be imposed on any entity transferring funds to individuals or groups subject to domestic or international sanctions.

PERMITTED TRANSACTIONS FOR FINANCING IN FOREIGN CURRENCY

To achieve the objectives of facilitating foreign trade and enhancing financial security, the Central Bank of Iraq has permitted certain transactions for financing in foreign currency.

The Central Bank has allowed registered companies, industrial projects, small enterprises, branches of foreign companies, and investment projects to access funding through the electronic platform. These entities must provide comprehensive information regarding the details of the transfer, including data on the requesting customer, ultimate beneficiary, trade particulars, intermediary bank, and correspondent bank. The equivalent amount in Iraqi dinars must be credited to the bank's accounts held with the Central Bank that are designated for subscription operations on the platform. Critically, once a bank subscribes to the platform, it commits to not altering the ultimate beneficiary of the transfer.

Permitted transactions for financing in foreign currency also encompass the transfer of financial proceeds, such as from the sale of real estate or other assets to Iraqi residents abroad. The transfer must originate from the account of the individual or their agent in Iraq and be directed solely to their account or their company's account overseas. Payments related to banking and credit facilities with banks outside Iraq, including principal amounts owed and interest due, are allowed if the bank maintains a notarized declaration from the customer. This declaration must contain the loan contract signed between the customer and the foreign bank, details on the purpose of the loan, and proof of the origin of funds entering Iraq.

To participate in the electronic platform, customers of banks seeking to purchase dollars to finance foreign imports must submit requests with comprehensive data on the transfer. The dinar equivalent must be credited to the bank's current accounts with the Central Bank designated for platform subscription operations. Significantly, once a bank subscribes to the platform, it undertakes not to change the ultimate beneficiary of the transfer.

The Central Bank's measures aim to streamline foreign trade financing, advance the Bank's objectives, reinforce the role of financial institutions in providing foreign currency to intended recipients, maintain exchange rate stability, and align with legal requirements. The controls outlined in the regulations subject data and documents to scrutiny and review unaddressed cases to determine appropriate action.

PROCEDURES FOR PARTICIPATING IN THE ELECTRONIC PLATFORM

To participate in the electronic platform for foreign currency sales, financial institutions must adhere to specific procedures as outlined by the Central Bank of Iraq.

ELIGIBILITY

Only officially registered companies, industrial and small enterprises, branches of foreign companies, and licensed investment projects are eligible to access funding through the electronic platform, provided they meet the necessary criteria.

Commitments

Banks participating in the platform are obligated to uphold several commitments, including:

1. Implementing thorough customer due diligence and Know Your Customer (KYC) procedures compliant with Anti-Money Laundering and Terrorism Financing Law No. 39 of 2015. This entails verifying customer identities and monitoring account activity.

2. Maintaining records of correspondent bank accounts and transfers, specifying the purpose and amounts of funds transferred by the Central Bank.

3. For permitted imports, creating a file with purchase documentation, a shipping bill from the same country as the transfer destination. Shipping bills are exclusive to import transfers.

4. Allowing financial proceeds transfers to Iraqi residents abroad only from their Iraq-based accounts. Transfers must be directed solely to their accounts or company accounts abroad for the purposes of buying a property.

5. Permitting payments for banking and credit facilities from banks outside Iraq, provided a notarized customer declaration with the loan contract and proof the facilities entered Iraq legally.

Procedures

YOUR PARAGRAPH TEXT

1. Customers requesting dollar purchases for imports must submit requests to their banks with details on the transfer, including information on the customer, beneficiary, trade specifics, intermediary and correspondent banks.

2. The dinar equivalent of the transfer amount must be deposited into the bank's account designated for platform subscription operations.

3. Once subscribed, banks cannot alter the final beneficiary of the transfer.

By upholding these procedures and commitments in accordance with the law, financial institutions can facilitate cross-border transactions, foreign trade, and financial security through participation in the Central Bank of Iraq's electronic platform.

REQUIRED DOCUMENTATION FOR TRANSFER REQUESTS

To execute foreign currency transfers, Iraqi banks and non-bank financial institutions must obtain and verify specific documentation from customers to comply with the Central Bank's regulations. Failure to do so will result in the rejection of transfer requests and possible sanctions.

Required Documentation

Banks and non-banking financial institutions must obtain and scrutinise the following documentation from customers before processing any foreign currency transfer requests:

1. Official government-issued identification for individuals, such as a national ID card, or passport. For companies, commercial registration certificates, tax identification numbers, and articles of incorporation are required.

2. Evidence of the underlying transaction, contract, or invoice that necessitates the transfer. This could include pro forma invoices, letters of credit, bills of lading, or other documentation validating the purpose of the funds transfer.

3. Proof of the customer's source of funds, such as bank statements for the preceding three to six months. This aims to verify that the funds for transfer originate from legitimate sources and are commensurate with the customer's profile.

4. Completed transfer request forms, inclusive of beneficiary details, as specified by the Central Bank. All sections of the forms must be filled out accurately and comprehensively.

5. Any additional documentation requested by the Central Bank to substantiate compliance with domestic and international regulations, especially those related to anti-money laundering and counter-terrorism financing.

Banks and non-banking financial institutions must conduct thorough due diligence on all parties involved in a transfer, including scrutinizing names against sanctions lists. They must also retain all documentation related to a transfer for a minimum period of five years, as mandated by the Central Bank. Failure to comply with documentation and due diligence requirements can lead to severe penalties, including hefty fines and bans from the foreign exchange market.

The Central Bank reserves the right to request any supplemental information or documentation it deems necessary to verify compliance with regulations and align with international best practices. Its objective is to facilitate legitimate foreign trade and investment while safeguarding Iraq's financial system.

BANKS' COMPLIANCE COMMITMENTS WHEN USING THE PLATFORM

To fully comply with the Central Bank's regulations on cross-border money transfers, banks must uphold several commitments.

First, banks are obligated to implement Know Your Customer (KYC) procedures and due diligence standards as outlined in Anti-Money Laundering and Terrorism Financing Law No. 39 of 2015, in addition to relevant compliance regulations. This requires verifying the identities of account holders and monitoring transactions to detect suspicious activity.

Second, banks must maintain detailed records of all correspondent banking relationships and account activity that explain the purposes and rationale for funds transferred by the Central Bank. These records should be comprehensive and transparent to facilitate scrutiny by regulators.

Third, for documentary credits and foreign transfers used to finance the import of goods or services permitted by law, banks must compile documentation validating the purchase or provision of the specified items listed in the platform. This documentation shall constitute the sole requirement when initiating a transfer request on the platform.

Fourth, in the case of import transfers, banks must include a shipping bill. The shipping bill must originate from the same country to which the transfer is directed. If issued by another country, evidence of the relationship between the recipient parties and the source of the shipping bill is mandatory. Shipping bills are exclusive to import transfers.

Fifth, if it is confirmed that a bank transferred money to any individual or entity subject to domestic or international sanctions, the bank shall be permanently barred from participating in the foreign currency sale access window (Desk).

Finally, the submission of data and documents to the electronic platform by banks does not automatically validate or approve such information. The Central Bank reserves the right to scrutinize all data and documents according to their stipulated mechanisms, procedures, and timelines. Cases not explicitly addressed in the regulations but permitted under the law shall be reviewed on a case-by-case basis by relevant departments and presented to the Central Bank's management for decision making.

In essence, banks must exercise due diligence, maintain comprehensive records, validate transactions, comply with sanctions, and recognize that all information is subject to scrutiny by the Central Bank. By upholding these commitments, banks can access the foreign currency sale window and facilitate cross-border money transfers in a regulated environment.

TRANSFER CATEGORIES ALLOWED UNDER THE NEW CONTROLS

The new regulations establish seven transfer categories permitted under the controls. These categories aim to facilitate legitimate business and personal transactions while safeguarding national security interests.

Trade-Related Transfers

Transfers related to the financing of foreign trade, whether for the import or export of goods and services, are permitted. Supporting documentation such as invoices, shipping documents, and contracts must be provided to validate the trade relationship. Scrutiny of documents will be conducted to verify the authenticity of the trade parties and goods.

YOUR PARAGRAPH TEXT

Service-Related Transfers

Transfers for services such as insurance premiums, subscription fees, consultancy fees, and transportation charges are permitted. Documentation confirming the provision or receipt of services, such as invoices or service contracts, must be presented. Verification of actual service provision is required.

Investment-Related Transfers

Transfers related to foreign investments, including dividends and profits, are allowed, whether inbound or outbound. Relevant investment licenses and shareholding documents must be submitted as evidence of the investment relationship.

Personal Transfers

Individual personal transfers, such as medical expenses, tuition fees, and family remittances are permitted within specified monthly limits. Supporting documents such as medical or education bills and proof of relationship must be provided.

Loan Repayments

Transfers for the repayment of loans, both principal and interest, to foreign lenders are permitted. Loan agreements and amortisation schedules must be presented as evidence of the lending relationship and repayment terms.

Other Permitted Transfers

Transfers related to diplomatic missions, taxes, social security contributions, and employee pensions and end-of-service benefits will also be considered on a case-by-case basis upon presentation of relevant supporting documentation. Unmentioned cases that are not explicitly prohibited will likewise be reviewed individually by the CBI board.

The regulations aim to strike a balance between facilitating legitimate financial flows and safeguarding national security. Close monitoring of transactions and verification of supporting documents will be conducted to achieve compliance with these objectives. Banks and non-bank financial institutions must exercise due diligence in screening all parties involved in transfers against sanctions lists before executing any transactions.

SANCTIONS FOR VIOLATING THE REGULATIONS

Any violation of the regulations set forth will result in strict sanctions to reinforce compliance. As the Central Bank works to strengthen Iraq's banking sector and align it with international standards, strict enforcement of these controls is imperative.

Suspension from the Foreign Currency Sale Access Window (Desk)

Should a bank or a financial institution be found transferring funds to any individual or entity subject to domestic or international sanctions, that bank or financial institution will face permanent suspension from participating in the foreign currency sale access window (Desk). This suspension will prohibit the bank from facilitating any foreign currency transactions, effectively cutting off a key revenue stream. Such a severe penalty aims to deter banks from engaging in risky or illicit behavior that could undermine the Central Bank's objectives.

Scrutiny of Documentation

The Central Bank will rigorously scrutinize all data and documentation submitted by banks and financial institutions related to the subscription process on the electronic platform. Simply providing information does not guarantee automatic validation or acceptance. The Central Bank will review materials according to its own mechanisms, procedures, and timeframes. Any issues identified may result in penalties, the requirement of further information, or rejection of the subscription.

Review of Unaddressed Cases

For any instances not explicitly addressed within these controls but permitted under the governing laws, the Central Bank will conduct a thorough review. Each unique case will be evaluated individually by the relevant Central Bank departments before being presented to executive management for a final decision. The Central Bank reserves the right to issue additional guidance or implement new controls as needed to address unforeseen issues.

Strict enforcement of these regulations and severe penalties for violations emphasize the Central Bank's commitment to strengthening Iraq's banking sector. By bolstering compliance, the Central Bank aims to facilitate foreign trade, enhance financial security, and align practices with international standards. Overall, these measures will support the Central Bank's mission of maintaining economic and financial stability within Iraq.

EMPOWERING FOREIGN INVESTORS: KEY BENEFITS OF IRAQ'S NEW FINANCIAL REGULATIONS

The Central Bank of Iraq's newly implemented regulations for foreign currency transactions not only provide numerous advantages for foreign investors but also play a crucial role in realising Iraq's economic growth vision plan for 2030. These regulations offer clarity and a well-defined framework for financial transactions, reducing ambiguity and the risk of non-compliance. They also prioritise risk mitigation by necessitating the verification of funding sources' legitimacy and strict adherence to anti-money laundering laws. In addition, foreign investors now have access to protection and compensation options in case of damage from external parties or compensation committees' decisions, further enhancing their investment security. These regulations additionally streamline transactions through an electronic platform, promoting transparency and accountability while ensuring compliance with international standards. Collectively, this robust legal framework for capital movement and commitment to stability and compliance make Iraq an increasingly attractive destination for foreign investors eager to participate in the nation's growing economy as part of the plan.

Impact on Foreign Investors:

The new regulations introduced by Iraq's Central Bank will have a significant impact on foreign investors operating in Iraq. These regulations create a more structured and regulated environment for financial transactions, which can enhance the confidence of foreign investors in the country's financial system. The regulations prioritize compliance with international standards, anti-money laundering laws, and counter-terrorism financing regulations. Foreign investors will benefit from increased transparency, reduced risks associated with financial transactions, and a more secure investment environment.

Benefits for Foreign Investors:

Foreign investors stand to gain several benefits from these regulations. Firstly, the regulations provide a clear and well-defined framework for conducting financial transactions, reducing ambiguity and legal risks. Secondly, they offer protection and compensation options in the event of damage from external parties or compensation committees, providing foreign investors with recourse in case of unforeseen challenges. Thirdly, the regulations streamline the transaction process through an electronic platform, making it more efficient and transparent. Finally, by aligning with international standards, these regulations contribute to Iraq's attractiveness as an investment destination, potentially increasing foreign investment in the country.

Increased Business in Iraq:

The regulations are designed to enhance financial stability, security, and compliance in Iraq. While the immediate impact on business activity may include some adjustment challenges, in the long term, they are expected to increase business in Iraq. The regulations create a more transparent and secure environment for conducting financial transactions, which can improve investor confidence. As foreign investors perceive reduced risks and enhanced compliance measures, they may be more inclined to invest in Iraq, contributing to economic growth and revitalization in the country. Additionally, the regulations align Iraq with international best practices, potentially attracting more foreign investment and business opportunities to the nation.

THE BROADER CONTEXT: REFORMING IRAQ'S BANKING SECTOR

To fully understand the implications of the Central Bank of Iraq's comprehensive overseas money transfer regulations for 2023, it is necessary to consider them within the broader context of reforming Iraq's banking sector. In recent years, the Central Bank has pursued a deliberate strategy to overhaul the sector by driving it towards improved alignment with international best practices.

The latest regulations represent a pivotal step in achieving this long-term goal. Specifically, they aim to strengthen the roles of both banking and non-banking financial institutions in facilitating foreign trade and enhancing financial security. By streamlining the process for companies and individuals to access foreign currency, the regulations seek to uphold the stability of exchange rates while safeguarding against financial crimes such as money laundering or terrorist financing.

To accomplish these dual objectives, the Central Bank has implemented rigorous controls governing entities' eligibility to participate in the electronic platform, the types of transactions permitted, and the procedures for banks to subscribe to the platform. Only officially registered companies, validated investment or industrial projects, small enterprises, and foreign company branches may purchase foreign currency through the platform, subject to monthly limits. Permissible transactions are strictly confined to financing foreign trade, transferring financial proceeds from legitimate sources, and making payments on existing banking facilities outside Iraq.

Before subscribing to the platform, banks must obtain comprehensive data from requesting customers regarding the details of the transfer, including information on the final beneficiary and intermediary institutions. The equivalent amount in dinars must be deposited into the bank's account with the Central Bank designated for subscription operations. Significantly, once subscribed, a bank commits to not altering the final beneficiary of the transfer.

The Central Bank retains the authority to scrutinise all data and documents related to the subscription process to verify their validity and compliance with regulations. Unaddressed cases will be reviewed individually by relevant departments and presented to senior management for decision making. Repeat or egregious violations of regulations will result in a bank's permanent exclusion from participating in the foreign currency sale window.

In summary, the Central Bank of Iraq's new overseas money transfer regulations for 2023 should be viewed as a concerted attempt to facilitate foreign trade through official and regulated channels while safeguarding Iraq's financial system. Although the controls may present initial challenges for companies and banks, their proper implementation will ultimately strengthen Iraq's broader economic and financial stability.

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Pre-Regulation Financial and Business Challenges in Iraq

Before the introduction of the recent regulations by Iraq's Central Bank, the country faced several significant challenges in its financial and business landscape. There was a notable lack of regulatory clarity, with financial regulations often perceived as unclear and inconsistent, creating uncertainty and potential legal risks for businesses and investors. Iraq also grappled with issues related to illicit financial flows, including money laundering and terrorist financing, due to the absence of stringent regulations and monitoring mechanisms. Currency instability of the Iraqi dinar deterred foreign investors, and the absence of a transparent foreign exchange market complicated currency risk management. This regulatory environment eroded investor confidence and made foreign companies hesitant to invest in Iraq. Cross-border financial transactions were inefficient, and the risk of legal consequences for regulatory violations was ever-present. Iraq's limited access to global financial markets further hindered its ability to attract foreign investment and engage in international trade. The new regulations were introduced to address these challenges and create a more secure and investor-friendly financial environment in Iraq.

Final Summary

The Central Bank of Iraq's latest regulations for international money transfers mark a critical advancement in fortifying the nation's financial infrastructure and synchronizing it with global norms. These rules mandate rigorous customer due diligence, enforce strict anti-money laundering measures, limit specific transaction categories, and demand thorough documentation and reporting, thereby amplifying regulatory supervision and adherence. While these changes may pose implementation challenges, they are crucial for suppressing unlawful financial activities, bolstering investor trust, and underpinning Iraq's comprehensive economic revitalization strategies. Through judicious management and steadfast enforcement, these directives have the potential to usher Iraq's financial sector into a new epoch characterized by transparency, responsibility, and reliability.

Republic Of Iraq
Central Bank Of Iraq

CBI
CENTRAL BANK OF IRAQ 1947
البنك المركزي العراقي

جمهورية العراق
البنك المركزي العراقي

دائـرة الاستثمارات والتحويلات الخارجية
قسم نافذة بيع العملة الاجنبية

NO :
Date :

العدد : ٥/١١١ ١٠٨٢
التاريخ : ٢٠٢٣/٢/١٩

إلى / المصارف المُجازة كافة

م/ ضوابط التحويل الخارجي لسنة ٢٠٢٣

تحيــة طيبــة ...

استناداً إلى قانون البنك المركزي العراقي رقم (٥٦) لسنة ٢٠٠٤ المُعدل، ولغرض تحقيق أهداف البنك المركزي من خلال تعزيز دور الجهاز المصرفي والمؤسسات المالية غير المصرفية في تأمين العملة الأجنبية إلى المستفيدين، بما يؤدي إلى المحافظة على استقرار أسعار صرف تلك العملة من جانب، والالتزام بمتطلبات قانون مكافحة غسل الأموال وتمويل الإرهاب رقم (٣٩) لسنة ٢٠١٥ من جانب أخر، وبناءً على مقتضيات مصلحة العمل بما يَنسجم مع التوجهات الإصلاحية للقطاع المصرفي في العراق والتي من شأنها تطوير العمل المصرفي وفق افضل الممارسات الدولية، قرر هذا البنك اعتماد ضوابط التحويل الخارجي المرفقة ربطاً.

مع التقدير.

المرفقات//

- الضوابط .

علي محسن اسماعيل
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استناداً إلى قانون البنك المركزي العراقي رقم (٥٦) لسنة ٢٠٠٤ المُعدل، وتماشياً مع ما ورد في المادة (٢٨) منه والتي أتاحت للبنك المركزي العراقي الشراء والبيع البسيط غير المشروط للنقد الأجنبي، وبهدف تسهيل اجراءات تمويل التجارة الخارجية وتحقيق أهداف البنك المركزي من خلال تعزيز دور الجهاز المصرفي والمؤسسات المالية غير المصرفية في تأمين العملة الأجنبية إلى المستفيدين، بما يؤدي إلى المحافظة على استقرار أسعار صرف تلك العملة من جانب، وتبسيط إجراءات بيعها، بما فيها آليات الرقابة والتحقق من عمليات البيع اليومية من جانب آخر، مع ضرورة الالتزام بمتطلبات قانون مكافحة غسل الأموال وتمويل الإرهاب رقم (٣٩) لسنة ٢٠١٥، تقرر اعتماد الضوابط أدناه:

ضوابط التحويل الخارجي لسنة ٢٠٢٣

١. الجهات المسموح بتمويلها قانوناً عبر المنصة الإلكترونية

أ. جميع انواع الشركات المُسجلة لدى دائرة تسجيل الشركات في وزارة التجارة الاتحادية.

ب. المشاريع المُسجلة لدى المديرية العامة للتنمية الصناعية في وزارة الصناعة والمعادن الاتحادية.

ج. الشركات البسيطة المؤسسة أصولياً من الغرف التجارية (بموجب عقد تأسيس مصدق من الكاتب العدل) بما لا يتجاوز مبلغ (٢٠٠٠٠٠) دولار (مائتا ألف دولار شهرياً).

د. فروع الشركات الأجنبية المُسجلة لدى دائرة تسجيل الشركات في وزارة التجارة الاتحادية.

ه. المشاريع الاستثمارية بجميع انواعها المرخصة من هيئات الاستثمار.

و. المشاريع الزراعية والحيوانية المُرخصة من دوائر الثروة الحيوانية او الاستثمارات الزراعية او البيطرة في وزارة الزراعة الاتحادية.

ز. المكاتب العلمية المُرخصة أصولياً من نقابة الصيادلة.

ح. موزعو المصانع العالمية الثابت تعيينهم من تلك المصانع لأغراض العمل في العراق، والوكلاء الذين يؤيد الموزع تعيينهم للعمل في السوق العراقي المرخصين بالعمل أصولياً في العراق.

ط. وكلاء الشركات العالمية المسجلين وفق قانون الوكالة التجارية النافذ.

ي. جميع انواع الشركات والمصانع والمعامل والمشاريع المرخصة في إقليم كوردستان العراق بعد تقديم ما يثبت التأسيس او الترخيص من الجهات القطاعية ذات العلاقة مترجمة الى اللغة العربية ترجمة قانونية، ويكون ذلك لمدة تنتهي في ٢٠٢٣/١٢/٣١ على ان تقوم تلك الجهات بالتسجيل مع الجهات القطاعية النظيرة في الحكومة الاتحادية، حيث لن يسمح بمشاركتها في المنصة الالكترونية بعد التاريخ المذكور اعلاه.

٢. المعاملات المسموح بتمويلها قانوناً بالعملة الأجنبية

أ. استيراد السلع والبضائع المسموح باستيرادها قانوناً.

ب. شراء وتجهيز الخدمات المسموح بها قانوناً، وبضمنها خدمات الشحن.

ج. الطلبات التي ترد إلى البنك المركزي من المؤسسات الحكومية والعامة والجهات الممولة ذاتياً عن احتياجاتها التي لا يوجد لها تخصيص بالدولار ضمن الموازنة العامة الاتحادية للدولة، معززة بالوثائق الرسمية التي تدعم تلك الطلبات.

د. تعزيز أرصدة الحسابات الفرعية المفتوحة لدى مصرف (جي بي مورغان) للمصارف وشركات الدفع الإلكتروني التي تمتلك عضوية رئيسية مع شركات البطاقات العالمية (فيزا وماستركارد).

ه. تعزيز أرصدة المؤسسات المالية التي تمتلك عضوية رئيسية لدى شركات التحويل المالي الدولية (ويسترن يونين، موني غرام وغيرها) لتسوية التزاماتها مع تلك الشركات بعد تقديم الكشوفات المطلوبة.

و. التحويلات عن المعاملات الأصولية لشراء العقارات في الخارج وكما يلي:

أولا: أن يكون التحويل لحساب ذات الزبون في الدولة الأجنبية المطلوب شراء العقار فيها أو لحساب شركات الوساطة العقارية أو شركات المحاماة العاملة في تلك الدول بعد التحقق من وجود اسم الزبون في العقد الموقع مع شركة الوساطة العاملة/شركة المحاماة في الدولة المراد شراء العقار فيها.

ثانيا: تقديم ما يثبت الإقامة الدائمة أو المؤقتة من الجهات المختصة في الدول التي تسمح قوانينها بذلك ولا يشترط ذلك في الدول التي لا تسمح قوانينها بالإقامة قبل تملك العقار.

ثالثاً: أن يقدم الزبون إلى المصرف ما يثبت شرعية مصادر أمواله التي يرغب بتحويلها.

رابعاً: أن يقدم الزبون إلى المصرف ما يثبت قيامه بشراء العقار في الدولة الأجنبية خلال مدة اقصاها ستة أشهر من تاريخ التحويل.

ز. العلاج في الخارج ويكون التحويل من حساب الزبون أو أحد أقاربه من الدرجتين الاولى والثانية إلى حساب المستشفى في الخارج بعد تقديم تقرير طبي من المستشفى المعني.

ح. دفع الأجور الدراسية في الخارج ويكون التحويل من حساب الطالب أو أحد أقاربه من الدرجة الاولى او الثانية الى حساب الجامعة التي يدرس فيها او لحساب الطالب ذاته في بلد الدراسة بعد تقديم ما يُثبت تسجيله في الدراسة مصدقاً من الملحقية الثقافية العراقية في بلد الدراسة.

ط. التحويلات المرتبطة بالاستثمارات الأجنبية في العراق وكما يلي:

أولاً: رؤوس أموال المشاريع الاستثمارية الممنوحة اجازات استثمار بموجب قانون الاستثمار (١٣) لسنة ٢٠٠٦ وتعديلاته (بعد إثبات دخولها من خارج العراق لهذا الغرض في وقت سابق) وعوائد المشاريع الاستثمارية بعد تقديم بيانات مالية مدققة تثبت تحقق الأرباح وما يثبت تسوية التزامات المستثمر مع الحكومة العراقية وباقي الجهات ذات العلاقة داخل العراق.

ثانياً: تحويل عوائد بيع الأسهم للعراقي المقيم في الخارج أو الأجنبي (أصل القيمة زائداً عوائدها إن وجدت) في حالة بيعها على أن يقدم تأييد من سوق العراق للأوراق المالية.

ي. التعويضات التي تقررها أو تقرّها جهات رسمية عراقية للأجانب، أو للعراقيين المقيمين في الخارج.

ك. أرباح المساهمين في الشركات المسجلة في العراق بعد تقديم حسابات مالية مدققة أصوليا بالإضافة الى تقديم ما يثبت براءة الذمة الضريبية للشركة ومحضر اجتماع الهيئة العامة بإقرار التوزيعات او مجلس الإدارة، وان يكون التحويل بعد إثبات إقامة طالب التحويل في الخارج ويكون التحويل لحساب مفتوح باسمه في الخارج حصرا.

ل. مبالغ المتحصلات المالية (بيع عقارات أو أصول اخرى أو عوائدهما) للعراقي المقيم في الخارج على أن يكون التحويل من حسابه او حساب وكيله في العراق الى حسابه أو حساب شركته في الخارج حصراً.

م. المدفوعات المستحقة ذات الصلة بالتسهيلات المصرفية والائتمانية التي إرتبط بها الزبون مع المصارف خارج العراق (أصل الالتزام او الفوائد المستحقة عليه)، ويتطلب ذلك ان يحتفظ المصرف بإقرار موثق من الزبون يتضمن ما يلي:

أولا: عقد القرض الموقع بين الزبون والمصرف الذي منحه التسهيلات المصرفية الائتمانية خارج العراق مع التفاصيل والسبب الذي منح لأجله القرض.

ثانياً: تقديم ما يثبت دخول أصل التسهيلات المصرفية والائتمانية الى العراق عن طريق الجهاز المصرفي او البضائع الى العراق (في حالة كون التسهيلات عبارة عن بضائع).

٣. إجراءات الاشتراك في المنصة الإلكترونية

أ. تُقدم طلبات زبائن المصارف الراغبين بشراء الدولار لغرض تمويل استيراداتهم الخارجية عبر المنصة على أن تتضمن البيانات الخاصة بعملية التحويل بما فيها (بيانات الزبون طالب التحويل، بيانات المستفيد النهائي، بيانات القائمة التجارية، بيانات المصرف الوسيط والمراسل)، ويُقيّد ما يعادل ذلك بالدينار على حسابات المصرف الجارية المفتوحة لدى البنك المركزي/نوع الحساب المخصص لعمليات الاشتراك في المنصة، على أن يلتزم المصرف بعدم تغيير المستفيد النهائي من عملية التحويل بعد الاشتراك في المنصة.

ب. يجب ان يُعزز المصرف طلب الشراء عبر المنصة بالمرفقات الآتية:

أولا: القائمة التجارية (الفاتورة) على ان تكون بتاريخ نفاذية لا يتجاوز مدة ستة أشهر من تاريخ إنشاء الطلب على المنصة، و إثنى عشر شهراً للقوائم التجارية الخاصة بتصنيع المكائن وخطوط الانتاج، وقد تكون بشكل قائمة اولية او قائمة نهائية او قائمة مؤجلة الدفع او عقد شراء.

ثانياً: تَعهد وفق النموذج رقم (١) يُرفق مع كل طلب يتعهد المصرف بمقتضاه بالتحقق من سلامة مصادر أموال زبائنه المستوردين ومشروعيتها والالتزام بمتطلبات قانون مكافحة غسل الأموال وتمويل الإرهاب رقم ٣٩ لسنة ٢٠١٥ وبخلافه يتحمل المصرف كافة التبعات القانونية المترتبة على ذلك ويوَقّع التعهد من قبل كل من (المدير المفوض أو المدير الإقليمي أو من ينوب عنهما، مراقب الامتثال، مسؤول مكافحة غسل الأموال، مسؤول إدارة المخاطر).

ثالثا: تَعهد وفق النموذج رقم (٢) يُرفق مع كل طلب تحويل (اعتماد مستندي أو حوالة خارجية) بأنه أجرى عملية البحث والتحري والتحقق من جميع الأطراف ذات العلاقة بعملية التحويل بما فيها

المستفيد النهائي على قوائم العقوبات المحلية والدولية لا سيما قوائم (OFAC) وقوائم تجميد أموال الإرهابيين وذلك عند تقديم طلب التحويل عبر المنصة.

رابعاً: قَيد إيداع بواسطة نظام التسويات الإجمالية الآنية (RTGS) بالدينار العراقي مودع في الحساب المُخصص لعمليات الاشتراك في المنصة، على أن يكون قبل مدة ثلاث ايام عمل من تاريخ تنفيذ عملية البيع او حسب ما يقرره البنك المركزي، يوضح فيه تاريخ ونوع المُشاركة.

٤. التزامات المصارف المُشاركة في المنصة الالكترونية

تلتزم المصارف بتطبيق ما يلي:

أ. تطبيق مبدأ "أعرف زبونك" وفق إجراءات العناية الواجبة المنصوص عليها في قانون مكافحة غسل الأموال وتمويل الإرهاب رقم ٣٩ لسنة ٢٠١٥ وضوابط الامتثال ذات الصلة.

ب. تَحتفظ المصارف بكشوفات حساباتها المفتوحة لدى المصارف المُراسلة متضمنة تفاصيل حركة الحساب التي تفصح عن أوجه استخدام المبالغ المُحولة من قبل البنك المركزي.

ج. لأغراض الاعتمادات المستندية والحوالات الخارجية المُستخدمة لتمويل استيراد السلع أو الخدمات المسموح بها قانوناً تقوم المصارف بفتح ملف يتضمن:

د. ما يؤيد شراء البضاعة أو تقديم الخدمة (القائمة التجارية التي تم تقديمها على المنصة) وتكون هذه القائمة هي المتطلب الوحيد المطلوب عند إنشاء طلب التحويل على المنصة.

ه. بوليصة الشحن (في حالة الحوالات لاستيراد بضائع) شريطة ان يكون اسم الزبون المحول مذكوراً اما في حقل (الجهة المشحون لها البضاعة) او (الجهة المستلمة للإشعار) او (بموجب عقد بين المخلص الكمركي والمشتري)، على ان تكون بوليصة الشحن صادرة من ذات الدولة التي تم التحويل إليها. وإذا كانت صادرة من دولة غير تلك التي تم التحويل اليها فيستدعي اثبات العلاقة بين الجهتين (مستلم الحوالة ومُصدر البوليصة). وتكون بوليصة الشحن هي المتطلب الوحيد للتدقيق اللاحق عن الحوالات.

و. ما يثبت إستلام او تقديم الخدمة للزبون (في حالة الحوالات لأغراض الخدمات) ويكون مستند إثبات تجهيز الخدمة هو المتطلب الوحيد للتدقيق اللاحق لعملية التحويل.

ز. مستندات الاعتماد المستندي (في حالة الاعتمادات لاستيراد البضائع) وتكون هذه المستندات هي المتطلب الوحيد للتدقيق اللاحق عن التحويلات بطريقة الاعتمادات المستندية.

ح. رسائل السويفت الخاصة بتنفيذ عملية التحويل.

ط. ما يؤيد قيام المصرف بإجراء عمليات البحث والتحري والتحقق من جميع الأطراف ذات العلاقة بالتحويلات بما فيها المستفيد على قوائم العقوبات المحلية والدولية لا سيما قوائم (OFAC) وقوائم تجميد أموال الإرهابيين وذلك قبل تنفيذ عملية التحويل، على أن تتم عملية البحث والتحري عن أسماء الأطراف ذات العلاقة باللغتين الإنكليزية والعربية.

٥. **أحكام ختامية**

أ. يَضمن هذا البنك عدم مشاركة بيانات الزبائن المشاركين في المنصة الالكترونية مع اي طرف الا بقرار قضائي بات، ويضمن كذلك عدم مشاركتها بأثر رجعي الا بذات الشرط.

ب. يَبيع البنك المركزي العملة الأجنبية حسب السعر الرسمي المعلن من قبله، على ألا يتجاوز هامش بيع الدولار من قبل المصرف إلى زبونه عن (١٠) دينار (عشرة دنانير) لكل دولار.

ج. تُقدم طلبات تحويل العملة الأجنبية على المنصة الإلكترونية قبل مدة يومين عمل من تاريخ تنفيذ عملية التحويل أو حسب ما يُقرره البنك المركزي.

د. تُستبعد أية عملية بيع أو شراء للعملة الأجنبية غير مستوفية للضوابط الواردة في هذه الضوابط.

ه. في حال ثبوت قيام المصرف بالتحويل إلى أي شخص أو كيان خاضع للعقوبات المحلية أو الدولية يتم حرمانهم من الاشتراك في نافذة بيع العملة الأجنبية بصورة دائمة.

و. ان تقديم المصارف والمؤسسات المالية غير المصرفية للبيانات والوثائق المتعلقة بعملية الاشتراك في المنصة الإلكترونية الى البنك المركزي واستلامها من قبله لا يمثل قبولاً تلقائياً لتلك الوثائق والبيانات أو المُصادقة على صحتها، حيث تخضع تلك الوثائق والبيانات للتدقيق بالطريقة والآلية والوقت الذي يحدده البنك المركزي.

ز. تُدرس الحالات التي لم ترد في المعاملات المسموح بتمويلها قانوناً بموجب هذه الضوابط من قبل الدوائر ذات العلاقة وتعرض كل حالة بحالتها على إدارة البنك المركزي للبت بشأنها.

ح. تُنفذ هذهِ الضوابط اعتباراً من تاريخ بدء العمل بالمنصة الالكترونية للتحويلات الخارجية.

ط. تلغى تعليمات بيع وشراء العملة الأجنبية لسنة ٢٠٢١.

علي محسن إسماعيل

المحافظ وكالةً

رئيس مجلس الإدارة

١٩/٢/٢٠٢٣

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