

LAW OF MONGOLIA ON CURRENCY SETTLEMENTS

Chapter One

General Provisions

Article 1. Purpose of this law

The purpose of this law is to define the powers of the Government bodies in charge of currency settlement, to regulate exchange controls for currency circulation by business entities, organisations and citizens and to establish mechanisms to sustain the Mongolian currency exchange rate.

Article 2. Legislation on currency settlements

1. The legislation on currency settlements is comprised of the Constitution of Mongolia, this law, and other relevant legislation which is consistent with those laws.
2. If an international treaty to which Mongolia is a party is inconsistent with this law, then the provisions of the international treaty shall prevail.

Article 3. Definitions

1. "Currency" includes the national currency of Mongolia, foreign currencies, gold currencies, precious reserves and accounting units used as payment in international commerce.
2. "National currency of Mongolia" means the togrog, that is the solvent currency of Mongolia, bonds in international transactions and other instruments of payment expressed in togrogs.
3. "Foreign currencies" include solvent foreign currencies in circulation, bonds, and instruments of payment expressed in foreign currencies and widely used in international transactions. Foreign currencies shall be internationally accepted and divided into two categories: freely convertible and non-convertible.
4. "Gold currency" means purified gold traded on the international market held in international financial centres to be sold as foreign currency.
5. "Precious reserves" means precious stones and metals similar to gold currency.
6. "Purified gold" means gold which is not sold as foreign currency but which has been purified to add to the quality of gold.
7. Permanent residents involved in currency settlements (hereinafter referred to as "permanent residents") shall be:
 - 1) individuals who permanently reside in Mongolia and persons who are permanent residents of Mongolia but who are resident in a foreign country for no more than 183 days;
 - 2) legal persons in Mongolia established in accordance with the legislation of Mongolia which have branches and representative offices in foreign countries; and
 - 3) Mongolian legations in foreign countries.
8. Provisional residents involved in currency settlements (hereinafter referred to as "provisional residents") shall be:
 - 1) individuals who reside permanently outside of Mongolia, and who are resident in Mongolia for no more than 183 days;
 - 2) legal persons established in accordance with the legislation of a foreign country which have branches and representative offices in Mongolia; and
 - 3) foreign legations and international organisations which have branches or representative offices in Mongolia.

Article 4. Outgoing currency reserves of Mongolia

1. The outgoing currency reserves of Mongolia in the ownership of commercial banks and competent State bodies shall consist of:

- 1) gold currency held in foreign banks and financial institutions;
 - 2) foreign currencies which are freely convertible;
 - 3) bonds which are payable and saleable in foreign bond markets; and
 - 4) any other documents which are used internationally as currency reserves, excluding those set out in sub-paragraphs (1) and (2) of this paragraph.
2. The items set out in paragraph 1 of this article shall be the outgoing currency reserves of the competent State bodies.
 3. Funds deposited and loans granted by foreign countries shall be excluded from the calculation of the total sum of outgoing currency reserves owned by Mongolia or the competent State bodies.

Article 5. The currency market and the exchange rate in Mongolia

1. The currency market of Mongolia is a currency market which operates on the basis of supply and demand and which consists of the currency exchange activities of the authorised banks, exchanges and brokerage companies.
2. The Bank of Mongolia shall fix and advise the exchange rate of the togrog in relation to currencies which are bought and sold on the currency market by commercial banks on a comparative basis with a stable foreign currency used in foreign commerce by a majority of countries.
3. An increase or decrease in the togrog exchange rate by 5 percent or more from the previous day shall be brought to the attention of the Prime Minister of Mongolia. This shall not prevent the Governor of the Bank of Mongolia from increasing or decreasing the togrog rate even though the Prime Minister does not agree to a rate adjustment.
4. A commercial bank shall establish its own exchange rate for buying and selling currencies on the basis of market demand.
5. The rate fixed by the Bank of Mongolia shall be used in the State budget and for customs purposes.

Chapter Two

Powers of State Bodies With Respect to Currency Settlements

Article 6. The powers of the State Ih Hural

The State Ih Hural shall have the following powers in relation to currency settlements:

- 1) to define the currency policy of the State;
- 2) to control and make decisions in respect of balances of loans from foreign countries to the Government of Mongolia;
- 3) to establish a minimum level of outgoing currency reserves in State ownership;
- 4) to make decisions as to whether to take purified gold from the State property and put it into currency circulation; and
- 5) any other powers set out in legislation.

Article 7. The powers of the Government

The Government shall have the following powers in relation to currency settlements:

- 1) to increase the balance and resources of foreign currency;
- 2) to plan and control the balance of outgoing currency reserves of Mongolia;
- 3) to make proposals with respect to Government loans from foreign countries and their payment; and
- 4) any other powers set out in legislation.

Article 8. The powers of the Bank of Mongolia

The Bank of Mongolia shall have the following powers in relation to currency settlements:

- 1) to take measures to regulate and carry out currency circulation in Mongolia
- 2) to take measures to increase the outgoing currency reserves of Mongolia;
- 3) to be involved in currency circulation and outgoing currency transactions with the relevant authorities of the Mongolian and foreign currency markets;
- 4) to make proposals about the minimum levels of outgoing absolute currency reserves from State property and to maintain those levels properly and effectively;
- 5) to carry out currency circulation for transactions in which the Government of Mongolia is involved;
- 6) to monitor permanent residents outgoing transactions and carry out of cash transactions in foreign currencies; */This paragraph was re-edited by the Law of November 30, 2001/*
- 7) to set up a procedure for rendering accounts and reports on currency circulation;
- 8) to report to the State Ih Hural on all activities with respect to currency operations on a quarterly basis; and
- 9) any other powers set out in legislation.

Chapter Three

Currency Operations

Article 9. Currency circulation

1. The circulation of currency shall consist of such activities as selling, buying, holding, lending, settling transactions with and transferring currencies within and in and out of Mongolia.
2. Banks shall deal with foreign currency at the same time and in the same manner as national currency.
3. The Governor of the Bank of Mongolia and the Minister of Finance together shall confirm the rules of currency circulation, permit the national currency of Mongolia and foreign currencies to be freely exchanged and permit such currencies to enter and exit Mongolia.

Article 10. The currency operations of the Bank of Mongolia

1. The Bank of Mongolia is permitted to buy currencies and purified gold from domestic and foreign banks, other business entities and organisations or citizens for the purposes of managing and improving the outgoing currency reserves of Mongolia.
2. The Bank of Mongolia shall sell foreign currency from the outgoing currency reserves in its ownership in order to maintain the stability of the togrog.

Article 11. The rights and duties of commercial banks in currency operations

1. A commercial bank may, with the permission of the Bank of Mongolia, carry out the following activities with respect to currency circulation:
 - 1) non-cash transactions with respect to foreign currency;
 - 2) the buying and selling of foreign currencies in the form of cash;
 - 3) the opening and operation of accounts using foreign currency for permanent and provisional residents; and
 - 4) all kinds of operations involving foreign currency such as providing credit in foreign currencies and giving guarantees.
2. Commercial banks involved in currency circulation shall have the following duties:
 - 1) to report and prepare accounts on currency circulation in accordance with established regulations;

- 2) to carry out operations which affect the rate of the togrog only with the permission of the Bank of Mongolia;
 - 3) to secure and keep the foreign currency bank accounts of customers confidential; and
 - 4) to carry out transactions involving the foreign currency of customers on the demand of the customer and to pay interest on foreign currencies held in accounts.
3. Commercial banks shall establish the percentage of commission which they may take for foreign exchange services.

Article 12. The currency circulation of business entities, organisations and citizens

1. Permanent and provisional residents (as defined in articles 3(7) and 3(8) of this law) shall lend, transfer, buy and sell foreign currency only through the Bank of Mongolia and commercial banks authorised by the Bank of Mongolia.
2. If permanent residents (as defined in articles 3(7)(2) and 3(7)(3) of this law) receive any kind of income in the form of cash or non-cash foreign currency, they shall sell or hold such foreign currency in a commercial bank authorised by the Bank of Mongolia within 60 days of receipt of that income.
3. Permanent residents (as defined in article 3(7)(2) of this law) to deal in foreign currency in the form of cash shall sell or hold it in commercial banks except for such amounts needed for daily reserves in accordance with the procedure approved by the Bank of Mongolia. */The words "authorised by the Bank of Mongolia" were cancelled from this paragraph by the Law of November 30, 2001/*
4. Citizens of Mongolia and permanent residents (as defined in articles 3(7)(2) and 3(7)(3) of this law) shall be registered with the Ministry of Finance in order to provide credit to, assistance to or to set up capital in a foreign country.
5. Permanent and provisional residents shall provide written guarantees and enter contracts for the sale, loan, purchase or borrowing of foreign currency from commercial banks.

Article 13. Authorisation for the flow of currency in and out of Mongolia

1. Citizens of Mongolia, foreign citizens and stateless persons are permitted to bring foreign currency declared at the customs office through the State borders of Mongolia.
2. Permanent and provisional residents in Mongolia and stateless persons are permitted to take foreign currency beyond the State borders of Mongolia in the following circumstances:
 - 1) by providing a document verifying that freely convertible foreign currencies have been purchased from commercial banks;
 - 2) by providing a declaration from the customs office establishing that such foreign currency entered from outside Mongolia;
 - 3) by providing a certificate from the State notary office certifying that such foreign currencies constitute a gift or inheritance; and
 - 4) by any other means provided by the law of Mongolia.
3. A citizen of Mongolia may take freely convertible foreign currencies outside Mongolia in such quantities as declared to the customs office unless otherwise prohibited by law.

Article 14. Foreign currency accounts, transactions and the provision of credit

1. The Ministry of Finance shall maintain and operate registers of foreign currency loans to the Government from foreign and international banks and financial institutions.
2. On authorisation of the Government, the Minister of Finance shall give guarantees of foreign currency loans to the Government. The Government is not responsible for the repayment of foreign currency loans without the guarantee of the Minister of Finance.

3. The Government may enter contracts for the sale or loan of foreign currencies and assistance provided by foreign and international banks and financial institutions to the Bank of Mongolia, commercial banks authorised by the Bank of Mongolia to operate foreign currency accounts and carry out foreign currency transactions, and any other authorised business entities and organisations.
4. The parties to any contract referred to in paragraph 3 of this article shall agree on the interest rate, the date of repayment, the purpose of the loan and obligations of the parties under the credit contract.
5. Banks, business entities and organisations which enter contracts for foreign currencies lent to the Government shall accumulate capital resources in order to repay the loan to the State budget.
6. Business entities, organisations and citizens of Mongolia shall register all loans in foreign currencies borrowed from abroad with the Bank of Mongolia. */This paragraph was re-edited by the Law of November 30, 2001/*
7. Foreign currency loans shall only be repaid from the State budget with the permission of the relevant financial institution.
8. The Ministry of Finance shall execute the repayment of foreign currency loans and the circulation of foreign currency in the ownership of the Government to the banks of Mongolia.
9. Permanent and provisional residents may hold foreign currency accounts in commercial banks authorised by the Bank of Mongolia to be involved in foreign currency transactions or may hold accounts in the branches of foreign banks operating in Mongolia.

Chapter Four

Control of Currency Circulation

Article 15. Institutions which control currency circulation

The Government and the Bank of Mongolia, in accordance with their respective powers, shall control the circulation of currency of business entities and organisations of Mongolia.

Article 16. State Inspectors for the control of currency circulation

1. The Chief State Inspector, the Senior State Inspector and State Inspectors shall control currency circulations.
2. The Governor of the Bank of Mongolia shall be the Chief State Inspector in control of currency circulation and the Deputy Governor of the Bank of Mongolia in control of currency circulation shall be the Senior Inspector.
3. State Inspectors in control of currency circulation shall be appointed by the Chief State Inspector.

Article 17. The duties of the institutions which control currency circulation and the powers of the State Inspectors

1. The Bank of Mongolia shall perform the following duties:
 - 1) to ensure compliance with the legislation on currency settlements by all types of business entity and organisation and all citizens;
 - 2) to maintain checks on documents relating to the circulation of currency;
 - 3) to maintain checks on the accuracy of reports, statements and registers with respect to currency operations and transactions; and
 - 4) to maintain checks on whether the documents approved by the authorised institutions in accordance with the legislation are complied with.

2. The Government shall control the use and expenditure of currency in its ownership in accordance with the provisions of international treaties and the laws of Mongolia and the Government shall exercise that control through the Ministry of Finance.
3. State Inspectors shall have the following powers and duties with respect to the control of currency circulation:
 - 1) to examine any documents relating to currency operations and transactions, and to require copies of reports, explanations and other necessary documents from the relevant officials and citizens;
 - 2) to maintain checks on currency operations and transactions and to prepare and ensure the execution of a report on its findings. Reports of State Inspectors shall be effective upon approval of the Chief State Inspector or the Senior State Inspector. State Inspectors shall permit the relevant officials or citizens to sign the report. Officials or citizens who do not accept the findings of a report of a State Inspector may present their reasons for non-acceptance to the State Inspectorate;
 - 3) to require the rectification of any problems identified in the report within a specified time;
 - 4) to impose administrative sanctions pursuant to this law and any other laws on persons who fail to fulfil their legal obligations or who are in breach of the law;
 - 5) to submit a proposal to the Chief State Inspector for the prohibition of persons in breach of the law from performing currency operations and transactions;
 - 6) to provide the investigative authorities with any relevant documents in the case of criminal breaches of the legislation on currency settlements.
4. State Inspectors of currency control must keep confidential any information obtained in the course of exercising control of currency circulation from citizens, banks and other business entities and organisations involved in the circulation of currency.
5. The currency control authority shall impose sanctions on its officers who fail to fulfil their duties in accordance with the law.
6. Disputes in respect of the currency operations of business entities, organisations and citizens shall be resolved by the Courts.

Article 18. Breaches of the legislation on currency settlements

1. [If a breach of the legislation on currency settlements does not constitute a criminal offence, the following administrative sanctions shall be imposed:
 - 1) for breach of article 12(4) of this law, a fine of 5,000 to 50,000 togrogs shall be imposed upon citizens and a fine of 50,000 to 250,000 togrogs shall be imposed upon business entities and organisations. For a breach of article 12(2), a fine of 50,000 to 100,000 togrogs shall be imposed upon business entities and organisations;
 - 2) for breaches of articles 11(2)(2), 11(2)(3), 11(2)(4) of this law, a fine of 50,000 to 100,000 togrogs shall be imposed; */The words "and 12 (3)" were canceled from this subparagraph by the Law of November 30, 2001/*
 - 3) for breaches of article 14(6) of this law, a fine of up to 50,000 togrogs shall be imposed upon citizens and 100,000 togrogs upon business entities and organisations;
 - 4) for breaches of article 12(1) of this law, a fine of 20,000 to 50,000 togrogs shall be imposed upon citizens and 50,000 to 100,000 togrogs upon business entities and organisations; and
 - 5) for the carrying out of activities set out in article 11 of this law without the authorisation of the Bank of Mongolia or outside the scope of authorisation of the Bank of Mongolia all income illegally earned shall be confiscated and a fine of 50,000 to 250,000 togrogs shall be imposed.]

[] *inserted by an amendment dated 17 April 1995.*

2. Any damage caused as a result of a breach shall be compensated by the citizens, business entities or organisations in breach in accordance with the law.

Article 19. Coming into force of the law

This Law shall come into force on 1 June 1994.

Chairman of the State Ih Hural of Mongolia

N Bagabandi

Ulaanbaatar

12 May 1994