



CENTRAL BANK OF ARGENTINA

COMMUNIQUE N° 48761

04/10/2007

Re.: ***Foreign trade and exchange regulations in force***

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**I. Summarized foreign exchange regulations effective as of the end of March 2007**

**1.a. Goods export receipts**

It is mandatory to settle foreign exchange receipts from (FOB, CIF, as appropriate) goods exports through the foreign exchange market.

**1.a.i. Terms to settle foreign exchange receipts from goods exports**

They are set forth by the Ministry of Economy and Production's Secretariat for Industry, Trade and Small and Medium Enterprises, and run as from the date the loading permit is approved. Depending on the product type, they range between 60 and 360 consecutive days.

For capital and technology goods exports and turnkey exports comprised in Annex 19 to Executive Order 690/2002 and supplementary orders, the exporter may agree with the importer a longer term than that provided by the Secretariat for Industry, Trade and Small and Medium Enterprises, as long as the transaction is performed through the LAIA Reciprocal Credit Agreement or guaranteed by a foreign financial institution and the export's FOB value is financed for a term not exceeding six years from shipment date. For locally financed operations, this term may be extended during the financing term.

In addition, the Central Bank has provided that the exporter has 120 additional business days to settle foreign exchange receipts through the foreign exchange market. This term is extended to 180 business days when the purchaser has failed to pay the transaction and the foreign exchange receipts result from export credit insurance.

When goods export receipts are not settled through the Single Free Exchange Market in the established term, they should be settled by institutions at the reference exchange rate informed by the BCRA for the date when the term expired. Should this exchange rate exceed the rate for the conversion date, the latter shall apply.

**1.a.ii. Follow-up to the settlement of foreign exchange receipts from goods exports**

The financial institution appointed by the exporter approves the loading permit of foreign exchange receipts pursuant to Communication "A" 3493 and supplementary communications.

The financial institutions in charge of following up on loading permits may acknowledge shortfalls and/or deficiencies without the BCRA's prior consent, if the amounts are



backed by exporter-contributed documentation. For goods totally or partially rejected at destination, they may approve loading permits for up to the amount proportional to the ratio between the total reimport FOB amount in foreign exchange and the total rejected export FOB amount in foreign exchange.

Mechanisms described in Communications "A" 3678 and "C" 36260 shall apply to the export of goods traded on the basis of FOB pricing subsequent to the registration of the transaction (revisable prices — former National Customs Authority Resolution 2780/1992) and to the exports of goods pursuant to the Mineral Concentrate Regime (National Tax Authority Resolution 281/1998).

Customs operations exempt from the obligation to settle foreign exchange receipts from goods exports are listed in Communications "A" 3587, "A" 3693, "A" 3751, "A" 3812, "A" 3813, "A" 4099, and "A" 4462.

Communications "A" 3922, "A" 4004, and "A" 4076 established the follow-up mechanisms to settle foreign exchange receipts from goods exports under the EXW and FAS, DDP and FCA sales conditions, respectively.

Financial institutions may approve loading permits for exports comprised in Section 1 of Executive Order 2703/2002 (hydrocarbon sales) when foreign exchange worth of at least 30 percent of the FOB or CIF value of the permit has been settled.

Sales covered by Executive Order 417/2003 (sales of minerals from ventures with the exchange stability set forth under Section 8 of Law 24196 during the life of Executive Order 530/1991) are exempt from the statutory settlement of foreign exchange receipts.

Regarding loading permits not approved because the importer failed to pay, the financial institution in charge of follow-up should indicate—in addition to reporting that the permit is not complied with pursuant to the regime in force—that collection procedures are under way (provided that the exporter and the importer do not belong to the same group of companies), when any of the following conditions is met:

1. Exchange control in the importer country: when the country of destination has implemented restrictions to foreign exchange transfers abroad for import payment after the shipment of goods and while those restrictions remain in force;
2. Subsequent insolvency of the foreign importer: when the foreign importer has become insolvent after the shipment of goods; and
3. Debtor in arrears: when the exporter:
  - 3.1. Has taken or is taking legal action against the importer or the relevant person, or
  - 3.2. Proves, through claims filed against the debtor, that collection procedures have been started without reaching a court action. This alternative will only be valid if the exporter does not have more than 3 destinations in those conditions in the calendar year considering the loading permit official dates and as long as the cumulative FOB value pending settlement does not exceed the equivalent of USD 30,000.

In this respect, Communication "A" 4250 lists the documentation to be filed by the exporter with the relevant institution in order to prove export status.

#### **1.a.iii. Advances and pre-export financing**

Communication "A" 4443 set forth the regulations applicable to the settlement of advances and pre-export financing.



These regulations establish documentation requirements to back foreign exchange inflows on account of advances and pre-export financing, the maximum term for the shipment by good type, the possibilities of operating with a medium-term line, mechanisms to regularize delayed shipments, restrictions to new operations in case of delayed shipments or debt settlement with funds other than export receipts. In this sense, if the shipment is delayed, the exporter cannot settle new advances and pre-export financing as long as their situation is not regularized.

The terms for shipment range from 90 to 540 days depending on the type of good, according to the list annexed to the Communication, supplemented by Communication "A" 4562.

As to the use of medium-term lines, item 6 of Communication "A" 4443 was amended through Communication "A" 4493 to include lines granted by foreign banks and lending agencies. In addition, where no evidence has been provided by the lending institution's local representative as required, a copy of the agreement backing the operation may be furnished instead, as provided in the regulation.

Pursuant to the regulations in force, it is possible to use a shipment order not matching the purchase order to back external financing inflows, as well as to apply advances to settle pre-export financing, to keep advances pending settlement for over 30 consecutive days, or to ship beyond the terms stipulated to replace shipments with pending receipts due to the importer's failure to comply.

The local customer's debt with the financial institution on account of the execution of performance bonds by local financial institutions to Argentine exporters on account of advances or pre-export financing from abroad is governed by Communication "A" 4443 and supplementary communications, the regulations governing pre-export financing granted by local institutions, taking as the source date the date the foreign exchange advance or the repatriation of the external pre-export financing was arranged.

The settlement of advances and pre-export financing from direct liabilities not guaranteed by local banks and not made through the application of export receipts will need to be made pursuant to regulations applicable to the payment of external financial loans, taking as the source date the date of foreign exchange settlement, except for the cases listed in Communication "A" 4561, for which access to the foreign exchange market is governed by regulations applicable to the payment of commercial liabilities:

- 1.1. The settlement of export advances when the exporter is not able to meet the term for shipment agreed with the customer, due to the suspension of the shipment provided by the government. In such cases, the shipment should have been suspended as from the date the advance is disbursed instead of after the due date for the actual shipment, pursuant to Communication "A" 4443 and supplementary communications.
- 1.2. Advances and pre-export financing that are not settled with foreign exchange receipts from goods exports when, after settling them with foreign exchange from shipments, there is an outstanding amount per transaction in the foreign exchange market not exceeding the equivalent of 5 percent of the inflow or USD 5,000, whichever is higher. When such cases relate to pre-export financing granted or backed by local banks, they will also be exempt from provisions in item 1.d. of Communication "A" 4443.
- 1.3. The settlement of advances on exports relating to goods shipped by the exporter but rejected by the importer and then reimported. In that case, before accessing the foreign exchange market, evidence of the reimport of exported goods must be submitted to the relevant institution.



Advances and pre-export financing repatriated as from 6/10/05 included and settled pursuant to provisions applicable to the payment of external financial loans, prior to accessing the foreign exchange market, must be deposited in the amount and for the term provided by Communication "A" 4359.

**1.a.iv. Application of goods export receipts to the settlement of advances and pre-export financing and other external financing**

Export receipts may be applied abroad to settle:

- a. Advances and pre-export financing granted by local institutions before 12/6/01;
- b. Advances and pre-export financing from abroad previous to 12/6/01 when the exporter has chosen the rollover mechanism (inflow of new advances or pre-export financing for the same amount settled and maintenance in January-September 2002 of an average 85 percent of the balance from these items as of 12/31/01); and
- c. Advances and pre-export financing received through local financial institutions between 12/6/01 and 1/10/02, the Official Foreign Exchange Market since 1/11/02, or the Single Free Exchange Market since 2/11/02.

With the Central Bank prior consent, export receipts may also be applied to:

- a. Settle other advances and pre-export financing prior to 12/6/01;
- b. Settle structured loans effective as at 11/30/01; and
- c. Settle the principal of external financial liabilities current as of 11/30/01 that are restructured by improving in at least 5 years the average life of the original debt.

Communication "A" 4420 provides that, as from 9/16/05, foreign exchange receipts from goods exports may be applied to settle new financial debt principal and interest from: (i) bonds issued abroad, (ii) financial loans from international agencies, official lending agencies, multilateral banks, and other foreign banks, and (iii) liabilities in foreign currency with local financial institutions funded with foreign credit lines, or with other funding sources from local institutions, when specifically allowed by applicable regulations, as long as the new funds are allocated by the exporter to fund new investment projects in the country to increase the production of goods that will be mostly exported, if all the relevant requirements are met.

Furthermore, foreign exchange receipts from goods exports may be applied to make principal and interest payments on new financial debt incurred by exporters on account of bonds issued abroad and loans by foreign banks and foreign currency loans by local financial institutions funded with foreign credit lines, or with other funding sources from local institutions, when specifically allowed by applicable regulations, as long as the requirements on term (10 years or more), average life (5 years or more) and interest rate on the financing operation (up to a 100 basis-point spread on the 180-day Libor rate) and all other requirements in Communication "A" 4639 are met.

**1.a.v. Other goods export receipts**

Foreign exchange regulations provide that, for mergers, starting on the date a merger is recorded in the Public Registry of Commerce, goods and services exports pending repatriation and settlement through the domestic foreign exchange market, as well as outstanding advances and pre-export financing to companies dissolved during the merger process, are considered as operations of the merging or, in turn, the absorbing company. In this sense, foreign exchange from goods exports by dissolved companies may be applied to settle pre-export financing loans either of dissolved companies or of



the merging or the absorbing company, and vice versa, pursuant to general regulations in force, as long as requirements in Communication "A" 4110 are met.

Reference: Communications "A" 3473, 3493, 3587, 3608, 3678, 3693, 3751, 3812, 3813, 3922, 3978, 3990, 4004, 4025, 4076, 4099, 4108, 4104, 4110, 4215, 4250, 4361, 4404, 4420, 4443, 4493, 4462, 4493, 4553, 4562, 4639, 4641, "C" 36260, and 40209.

### **1.b. Services export receipts**

It is mandatory to settle through the foreign exchange market 100 percent of foreign exchange receipts from services exports, net of withholdings or discounts made by the client abroad.

There are 135 business days to convert income from services rendered to nonresidents, counting as from the date of collection abroad or domestically or their crediting in foreign accounts.

When services export receipts are not settled through the Single Free Exchange Market in the established term, such receipts should be settled by institutions at the reference exchange rate informed by the BCRA for the date when the term expired. Should this exchange rate exceed the rate for the settlement date, the latter shall apply.

Reference: Communications "A" 3473, 3608, 4361, "C" 39547.

### **1.c. Current transfers and income**

There are no regulations generally stating statutory settlement.

Only the companies that purchase foreign assets for direct investment are required to prove, before accessing the foreign exchange market to service or amortize such financing, that they have repatriated and settled the resulting income. This requirement shall have to be met when the companies needed the Central Bank's prior consent to access the foreign exchange market due to the amount of the purchase and the operation was totally or partially financed with foreign funds.

Reference: "A" 4634.

### **1.d. Capital**

Financial and nonfinancial private sector external loans involving securities, financial loans (including swaps of securities) and external financial credit lines must be repatriated and settled through the Single Free Exchange Market.

Financial and nonfinancial private sector debt securities in foreign currency whose principal and interest services are not exclusively payable in pesos in Argentina must be paid in foreign currency, and the resulting funds must be settled in the local market.

Funds may be repatriated and settled through the foreign exchange market within up to 365 consecutive days starting from the date of disbursement.

Foreign exchange regulations in force as at the date foreign exchange is traded through the local exchange market shall be applicable to all cases.

The companies that purchase foreign assets for direct investment are required to prove, before accessing the foreign exchange market to service or amortize such financing, that they have repatriated and settled the resulting income. This requirement



shall have to be met when the companies needed the Central Bank's prior consent to access the foreign exchange market due to the amount of the purchase and the operation was totally or partially financed with foreign funds.

Reference: Communications "A" 3712, 3820, 3972, 4634, 4643.

### **Minimum terms for financial borrowing**

New financial loans traded in the domestic foreign exchange market and rollovers of nonfinancial private sector and financial sector residents' external liabilities, agreed as from 6/10/05 included, should be made and kept for at least 365 consecutive days. These loans cannot be paid before maturity date, regardless of the settlement modality and whether or not that modality involves access to the domestic foreign exchange market.

The above does not apply to correspondent balances of institutions authorized to trade in foreign exchange, insofar as they are not financial credit lines, in which case they have to meet the requirements for financial loan inflows, nor to primary issues of debt securities listed and traded in self-regulated markets.

Original maturities for the amortization as from 6/10/05 of primary issues of debt securities listed and traded in self-regulated markets are exempt from the statutory deposit to access the foreign exchange market.

Amortization of principal of residents' nonfinancial and financial private sector external financial liabilities related to new disbursements as from 5/26/05 included, and rollovers as from that date, may only be made by accessing the Single Free Exchange Market, after 365 consecutive days from the date foreign exchange is settled in that market or from the latest rollover.

When settling principal services on obligations issued to implement external debt refinancing agreements, the minimum 365-consecutive-day term prescribed by foreign exchange regulations for the rollover of financial loans in Executive Order 616/05 will be considered to have elapsed when:

- a. The payment may be used for principal installments due at least 365 days before the date the foreign exchange market was accessed, even though the refinancing agreement was signed for a shorter term, or
- b. The refinancing proposal is submitted to the consideration of foreign creditors at least 365 days before the date the foreign exchange market was accessed, and insofar as it includes principal operations with a maturity date prior to the proposal submission.

If external borrowing agreements include clauses stipulating, as from maturity date, the creditor's right to demand payment of the debt or automatic rollovers with no specified period, it is understood that there is a rollover for the minimum term set by current foreign exchange regulations once the agreement expires.

Reference: Communications "A" 4359, "C" 46296, and 46307.

### **Foreign currency denominated 365-day interest-free deposits – Executive Order 616/2005**

According to Executive Order 616/2005, dated 6/9/05, Communication "A" 4359 regulated interest-free deposits with local financial institutions meeting the requirements set forth in Communication "A" 4360. These deposits shall be made in US dollars with 30 percent of the equivalent in that currency of the total sum when there are foreign exchange inflows into the foreign exchange market as of 6/10/05 resulting from the following operations:



- a. Financial sector and nonfinancial private sector financial liabilities, except for primary issues of debt securities publicly traded in self-regulated markets.

Deposits of foreign exchange from financial loans made pursuant to Communication "A" 4359 and supplementary communications may be released insofar as the capitalization of such loans by direct investors in the lending corporation is proven, and evidence is furnished of the beginning of the procedure for definitive capitalization recording in the Public Registry of Commerce. Communication "A" 4632 and supplementary communications shall apply to these cases.

- b. Primary issues of shares of resident companies that are not listed nor traded in self-regulated markets, insofar as they are not direct investment funds;
- c. Nonresident portfolio investment for domestic currency holdings, and financial sector and nonfinancial private sector assets and liabilities, insofar as they do not relate to the primary subscription of debt securities listed and traded in self-regulated markets, and/or primary subscription of shares of resident companies listed and traded in self-regulated markets;
- d. Nonresident portfolio investment to acquire a right in secondary markets over government securities.

Pursuant to the Ministry of Economy and Production Resolution 365/2005, dated 6/28/05, Communication "A" 4377 now includes the following operations as from 6/29/05 included:

- e. Nonresident portfolio investment allocated to the primary subscription of Central Bank securities;
- f. Inflows in the domestic foreign exchange market from external asset sales by private sector residents, for the surplus exceeding the equivalent to USD 2,000,000 per calendar month, in all financial institutions authorized to trade in foreign exchange.

Likewise, pursuant to the Ministry of Economy and Production Resolution 637/2005, the following operations are included as from 11/17/05:

- g. All inflows to the domestic foreign exchange market allocated to subscribe primary issues of securities, debt instruments, or share certificates issued by a trust fund trustee, whether listed and traded in self-regulated markets or not, whenever the above requirements are applicable to the acquisition of any of the goods held in trust.

Reference: Communications "A" 4359, 4377, "B" 8599.

### **Operations exempted from the statutory interest-free deposit**

The following operations are exempt from compliance with the abovementioned regulations:

1. Residents' settlement of foreign exchange from loans granted in foreign currency by the relevant local financial institution;
2. Foreign currency inflows into the foreign exchange market from direct investment in the country —Code 447— will be exempt from the statutory deposit insofar as:
  - 2.1.1. The relevant institution has evidence that the procedure for definitive capitalization recording was begun in the Public Registry of Commerce, or
  - 2.1.2. If the direct investor's funds are applied to refund totally or partially depleted capital stock or to cover negative net equity in branches with no



assigned capital (in this case, only the necessary amount of inflows will be exempt from compliance), and the relevant institution has an audited balance sheet prior to the date of foreign currency repatriation stating the amount of losses resulting from the cumulative balance and other income statement items, the minutes of the shareholders' meeting or the equivalent body, that records the acceptance of the contribution for such use, and the client's affidavit of the use of funds and, should there be any, of funds that were repatriated after the balance sheet closure date to cover losses.

If at the time the foreign exchange transaction takes place the institution lacks the relevant documentation, it shall deposit the funds, which shall be released 365 days following the deposit date or when the abovementioned documentation is submitted.

Communication "A" 4633 extended the terms to submit the documentary evidence of the operation being an exception. Where there is no documentary evidence, prove shall have to be furnished showing that a deposit was made pursuant to item 6 of Communication "A" 4359, which may be released within 365 days following the deposit date, as long as evidence of the contribution's definitive capitalization is provided.

The funds transfer must be requested by the direct investor, or retransferred from the local company's account abroad. In the latter case, it must be proven that those funds relate to the nonresident investor's contribution and that they were only temporarily deposited with the local institution's foreign account, as part of the process of integration and repatriation into the domestic foreign exchange market. In this sense, it is understood that funds are temporarily held in an account when they are retransferred to the local institution's correspondent bank within 2 business days following the date on which the institution's account abroad was credited with the funds as capital contribution.

3. Income from sales of shares of local companies to direct investors —Code 453— will also be exempt from the statutory deposit insofar as the relevant institution makes sure the purchase was paid with those funds —when this purchase qualifies as direct investment—, as provided in the relevant agreement, accompanied either by evidence that the capital stock change was recorded in the Public Registry of Commerce —when the type of company requires so— or a copy of the transfer of new shares recorded in the Stock Ledger.

If at the time the foreign exchange transaction takes place the institution lacks the relevant documentation, it shall deposit the funds, which shall be released 365 days following the deposit date or when the abovementioned documentation is submitted.

4. Income from nonresident investment applied to purchasing real estate —Code 489— shall be exempt from the statutory deposit, insofar as the funds are settled simultaneously to the signing of the deed.

Foreign funds transferred by nonresidents to purchase real property under construction in installments in Argentina may be recorded as foreign exchange inflows for direct investment when:

- a. The institution is able to certify that the seller, who is one of its clients, is a constructing company or natural person with experience in construction and real estate services;
- b. The beneficiary of the transfer by the nonresident investor is the seller;





- c. Transferred funds are simultaneously applied to foreign exchange settlement and the payment of the sales agreement and transaction costs; or
  - d. The funds are allocated to the payment of installments following the execution of the sales agreement in compliance with the relevant legal requirements, including registration in the relevant jurisdictions. In this case, the transferred amount and the installment paid should match, as stated in the relevant sales agreement.
5. Inflows into the foreign exchange market as from 6/29/05 included, resulting from:
- a. Liabilities with multilateral and bilateral lending agencies and with official lending agencies listed in the Annex to Communications "A" 4323 and "A" 4640, directly or through related agencies;
  - b. Other financial sector and nonfinancial private sector external financial liabilities, insofar as the institution involved simultaneously allocates funds resulting from foreign exchange settlement, net of taxes and expenses, to:
    - b.1. Purchasing foreign exchange to settle external debt principal services and/or
    - b.2. Accumulating long-term external assets. To that end, only resident direct investment in foreign companies is considered long-term external asset accumulation, insofar as, within 180 days of the date the foreign exchange market is accessed, the client proves effective allocation of funds to definite capitalization or the purchase of a foreign company;
  - c. Other nonfinancial private sector external financial liabilities, insofar as:
    - c.1. They are agreed on and settled at an average life of no less than two years, taking principal and interest payments into account for the calculation, and
    - c.2. The private sector uses them to invest in nonfinancial assets. Such use should be stated by the client in an affidavit detailing investment so as to enable the institution involved to determine univocally how those funds are used. This exception shall automatically expire when uses differ from those stated; in that case, a deposit shall be made within the following 10 business days of such expiration pursuant to item 6 of Communication "A" 4359.

To that end, nonfinancial assets comprise:

- (i) Investment included in the balance sheet under "fixed assets" (Communication "C" 42303); and/or
- (ii) "Intangible assets per mine cost" (Communication "C" 42884); and/or
- (iii) "Research, prospecting and exploration costs" (Communication "C" 42884); and/or
- (iv) "Acquisition of exploitation rights" included in the balance sheet under "intangible assets" (Communication "C" 44670);
- (v) Investment in assets similar to intellectual property rights, which are traded by transferring exploitation rights and should be included in the balance sheet under "intangible assets" (Communication "C" 46394).



In this regard, Communication "A" 4554 established the terms to submit documentary evidence of the operation being an exception; otherwise, a deposit shall be made pursuant to item 6 of Communication "A" 4359.

All refinancing, change in the agreement, or advance settlement of loans covered in the present item should, in all cases, comply with the minimum life term set forth above; otherwise, a deposit should be made with the total amount repatriated pursuant to the abovementioned provisions.

Where local financial institutions use financial credit lines granted by foreign financial institutions or external financial loans, they will be exempt from the statutory deposit, insofar as within the 5 following business days the funds are allocated to granting domestic loans to the private sector when the above requirements are met for nonfinancial private sector direct external loans.

Foreign financing granted and settled with an average life of no less than two years, taking principal and interest payments into account for the calculation, in favor of foundations and nonprofit associations, will also be exempt from the statutory deposit insofar as:

- i. The loan is specifically granted by the foreign creditor to finance microenterprises run by low income people;
  - ii. Funds are to be effectively applied to finance microenterprises run by low income people, in compliance with the requirements provided above for nonfinancial private sector direct foreign loans;
  - iii. The institution receiving the funds through the foreign exchange market:
    - a. Pursuant to its bylaws, finances microenterprises run by low income people (or similar), and intends to make it its main activity, which must be proven by submitting the latest audited annual balance sheet;
    - b. Provides technical assistance, monitoring, and training services for borrowers to develop their business ability;
    - c. Is exempt from income tax, VAT, and, if applicable, gross income tax.
  - d. Income from the financing of goods exports with exporter recourse in foreign financial institutions meeting the requirements set forth in item 2.f. of Communication "A" 4377;
  - e. Purchases of foreign exchange on account of item 475 —"Portfolio investment to settle liabilities"— pursuant to Communications "A" 4178 and supplementary communications, insofar as they are simultaneously used to service external debt as envisaged in regulations regarding such funds, are exempt from the statutory deposit;
6. Inflows through the foreign exchange market as from 7/11/05 included resulting from private sector residents' external asset sales used to subscribe primary issues of federal government securities, whose funds are applied to purchase foreign currency to service their liabilities;
  7. Institutions authorized to trade in foreign exchange should have the BCRA's prior consent in order to make nonresident payments to local financial institutions through the exchange market for financial guarantee executions and financial debt collections, without making the deposit provided for in item 6 of Communication "A" 4359;



This prior consent requirement is not applicable to:

- 7.1. Trade guarantees;
- 7.2. Nonresident financial borrowing from a local financial institution incurred before the date Executive Order 616/05 became effective;
- 7.3. Executions of financial guarantees granted before the date Executive Order 616/05 became effective;
- 7.4. Execution of financial guarantees granted irrevocably by foreign banks or companies, international organizations, and credit agencies, to hedge the risks of local financial institutions when:
  - 7.4.1. They were granted to ensure client participation in public biddings or in public works at the national or provincial level, or
  - 7.4.2. Funds are received more than 365 days after the guarantee was granted.
- 7.5. When, as a result of the execution of guarantees included in item 7.4., (i) resident individuals or legal entities incur financial debt with the foreign guarantor, or (ii) the foreign guarantor undertakes to make capital contributions to the local company, where the requirements in item 1 of Communication "A" 4447 are not met, there will be 20 business days as from the date the funds resulting from the above execution are transferred to the local institution's correspondent account abroad to prove that the interest-free deposit provided in item 6 of Communication "A" 4359 was effectively made by the resident individual or legal entity having external liabilities or the resident company receiving the capital contribution.

Pursuant to the Ministry of Economy and Production Resolution 731/2006, dated 09/17/06, the following operations are exempt from the requirement as from 09/18/06:

8. Foreign currency inflows into the foreign exchange market used for or resulting from the primary subscription of share certificates, bonds, or debt securities issued by a trust fund for energy infrastructure development and whose underlying assets totally or partly include the charges set forth under Law 26095, insofar as they are settled or redeemed totally or partially within 365 consecutive days.

In addition, Ministry of Economy and Production Resolution 1076/2006, dated 12/21/06, published in the Official Bulletin on 01/05/06, provided that:

9. The Ministry of Economy and Production Resolution 637, dated 11/16/05, cannot be applied to inflows in the domestic foreign exchange market from transfers from multilateral and bilateral lending agencies, or related agencies, to subscribe primary issues of securities, debt instruments, or share certificates issued by a trust fund trustee, provided that:
  - 9.1. Funds are repatriated on account of a debt to be maintained for the entire period with a multilateral and bilateral lending agency, or its related agencies;
  - 9.2. Funds are allocated to financing meeting the requirements contained in Section 4 of Ministry of Economy and Production Resolution 365, dated June 28, 2005.

Reference: Communications "A" 4178, 4323, 4377, 4359, 4386, 4427, 4507, 4554, 4574, 4632, 4633, 4640, "B" 8814, and 8901, "C" 42303, 42884, 43075, 44048, 44670, and 46394.



### **Other regulations on interest-free deposits**

Institutions authorized to trade in foreign exchange must record 100 percent of income from transactions through the foreign exchange market, and sell the necessary amount to make the statutory deposit as "Foreign exchange purchase to make the deposit provided by Executive Order 616/2005." They will only be able to credit the balance from the settlement proceeds after verifying whether regulations are complied with in making the deposit.

The balance of the foreign exchange purchase necessary to make the statutory deposit of repatriated funds must be credited under the operation holder's name, with a local banking institution.

When income is denominated in foreign currencies other than the US dollar, the various exchange rates at the foreign exchange market close informed by the Banco de la Nación Argentina for the business day prior to the day the deposit is made must be taken into account to determine the amount to be deposited.

Reference: Communication "A" 4359.

### **1.e. Others**

The amount in foreign currency collected by residents from the sale of unrealized nonfinancial assets such as football player transfers, patents, trademarks, copyright, royalties, license rights, grants, leases, and other transferable agreements should be repatriated and settled in the domestic foreign exchange market within 30 consecutive days after its collection in the country or abroad, or its crediting in accounts held abroad.

Reference: Communication "A" 4344.

## **2. OUTFLOWS**

### **2.a. Goods import payments**

Goods imports may be wholly paid in advance, whether by cash or deferred payment, regardless of the type of good. In this respect, Communication "A" 4605 updated regulations for advance and sight payments of Argentine goods imports.

It is worth mentioning that in all cases, nationalization of such goods should be proven within 365 days of the advance payment, or within 90 days of the sight payment. For advance payments where a longer term is needed, the BCRA should consent to it before the date the foreign exchange market is accessed.

When port clearance is delayed for reasons beyond the importer's control, the financial institutions involved may extend the above terms to up to 540 consecutive days from the date the foreign exchange market is accessed. To extend the terms any further, the Central Bank's prior consent is required.

If goods are not nationalized in time, the advance payment (or the difference, when the nationalized amount is lower than that paid) should be made within 10 business days of the due date for proving port clearance, with all applicable extensions. In that case, foreign exchange must be settled at the lowest exchange rate of that for the advance payment date and that of the MULC offered in the SIOPEL CAM 1 round (buying rate) for the date foreign exchange is settled.



The resulting funds may not be repatriated when the amount per operation does not exceed the equivalent of USD 10,000 or this exemption has not been used for an amount higher than the equivalent of USD 100,000 in a calendar year.

When goods are not cleared at port in whole or in part due to a loss and the shipment of goods to be nationalized is fully covered by a loss insurance, financial institutions will grant an additional term until the insurance claim is settled, insofar as provisions in item 10 of Communication "A" 4605 are met.

If goods cannot be cleared at port, the Central Bank may authorize term extensions for foreign currency repatriation until funds are recovered, in the following cases, as long as documentation under item 11 of Communication "A" 4605 is submitted and provided the following cases take place prior to accessing the foreign exchange market and that the exporter and the importer do not belong to the same group of companies: (a) exchange control in the importer country; (b) subsequent insolvency of the foreign importer, when there are no refund guarantees and the importer submits the following documentation; and (c) debtor in arrears.

In addition, debt from imports may also be prepaid, regardless of the due date.

Access to the foreign exchange market to make goods import financing payments that do not meet any of the requirements in paragraphs 1 to 7 below is subject to regulations applicable to settle principal debt from financial loans:

1. Term financing granted by the supplier or a lending agency to foreign exports in order to finance Argentine goods imports, insofar as the financing term is specifically set before shipment date or in the related remittances, where payment is made through a bank. If no term is specified, whichever way financing is granted, the implicit term will be 270 days after shipment date, for the present Communication purposes.
2. Term financing granted by a local or foreign financial institution, where foreign exchange disbursements net of expenses are directly and wholly applied to the advance payment and/or sight payment to the foreign supplier.
3. Term financing granted by a local financial institution to supplement foreign financing considered above, insofar as it is granted through a letter of credit or backed bills, or with a loan formally authorized by the institution, before the shipment date. In these cases, the institution must have (a) the shipment documentation within 50 business days following shipment date; and (b) irrefutable documentation guaranteeing that financing was granted by the local institution before shipment date.
4. Financing granted by a local financial institution to supplement foreign financing for terms not exceeding 180 days from shipment date.
5. Lease payments with replacement, purchase, or return option.
6. Foreign financing granted pursuant to the preceding requirements with a change on the part of the foreign creditor, insofar as financing conditions and the other terms and conditions of the original financing agreement are not modified.
7. Outstanding import business financing as at this date that qualify as import business financing pursuant to the definitions in Communication "A" 3806 and supplementary communications.

Reference: Communications "A" 3859, 3944, 4484, 4496, and 4605.



## **2.b. Payment of services**

There are no restrictions whatsoever to the payment abroad of services provided by nonresidents, regardless of the kind of services (freight, insurance, royalties, technical advice, fees, etc).

Reference: Communication "A" 3826.

## **2.c. Income (interest and profit and dividends)**

Access to the Single Free Exchange Market is allowed in order to pay financial sector and nonfinancial private sector interest services provided that:

- (1) Payments are made up to 15 consecutive days before due date of each interest installment;
- (2) Interest is accrued at any time during the current period; and

The foreign exchange market shall be accessed to pay interest services on the public debt when income is accrued as from the date foreign currency is sold in the local exchange market, or the date when funds are disbursed, if they were to be credited to correspondent accounts with institutions authorized to settle them in the local exchange market, within the two business days following the disbursement.

Before processing any interest payment abroad, the institutions involved should make sure the debtor has submitted, if appropriate, the debt statement pursuant to the reporting system provided by Communication "A" 3602, dated 5/7/02, and comply with other requirements set forth in item 4 of Communication "A" 4177.

The companies that purchase foreign assets for direct investment are required to prove, before accessing the foreign exchange market, that they have repatriated and settled the resulting income. This requirement shall have to be met when the companies needed the Central Bank's prior consent to access the foreign exchange market due to the amount of the purchase and the operation was totally or partially financed with foreign funds.

Access to the Single Free Exchange Market is allowed to pay profits and dividends abroad provided they relate to audited financial statements.

Reference: Communications "A" 3859, 4177, 4634, 4643, "C" 41002.

## **2.d. Financial debt**

Access to the Single Free Exchange Market is allowed to make principal payments related to nonfinancial private sector external liabilities provided that:

- (1) They are made at any time within 365 consecutive days before due date, insofar as the minimum remaining term set forth by the applicable foreign exchange regulations is complied with;
- (2) There is sufficient notice to pay the creditor upon due date principal installments whose settlement depends on the enforcement of specific conditions expressly contained in the external debt refinancing agreements with foreign creditors as from 2/11/02, when the Single Free Exchange Market became operative; and
- (3) They are partially or fully made in advance within terms of over 365 days, insofar as the applicable minimum remaining term is complied with and provided that any of the following is met:



- 3.1. If the payment is not part of a debt restructuring process, the amount in foreign currency to pay the external debt in advance does not exceed the present value of the debt portion that is being paid, or the advance payment should be 100 percent offset by new foreign financing with a present value not exceeding that of the debt which is being paid in advance;
- 3.2. If the payment is part of a debt restructuring process, the new terms and conditions and the cash payment should not imply an increase in the present value of the debt.

The current debt value should be calculated discounting future principal and interest maturities at the annual effective interest rate equivalent to the implicit interest rate on US dollar exchange rate futures hedging operations in institutionalized markets, for the closest term of no less than 180 days, upon the close of business on the business day prior to the date any of the following occurs:

- a. The choice to settle the external debt in advance is reported abroad, in compliance with the provisions set forth in the agreement or the relevant debt issuance provisions;
- b. The mandate is conferred to a financial institution for it to place new debt securities in the domestic capital market, if new debt issuance provisions specifically stipulate that resulting funds are to be applied to settle external debt in advance;
- c. The new debt in local currency to local financial institutions is disbursed, if the new provisions specifically stipulate that resulting funds are to be applied to settle external debt in advance; or
- d. Foreign exchange is purchased in the foreign exchange market to settle the debt in advance.

Terms arising from items a, b, and c above shall be applicable as long as the transaction is reported in writing —within 72 business hours after the transaction is agreed upon— by the financial institution involved through the Central Bank Reception Desk, addressed to the External Transactions and Foreign Exchange Manager, including data on liabilities to be settled in advance and details about the way in which the value of the payment has been set. If this requirement is not met, the date stipulated in item d shall apply.

If no transaction is made for a term of over 180 days in domestic institutionalized markets as at the business day prior to the trading date in the foreign exchange market, the implicit rate for longer-term operations will be used.

Where the early payment of financial debt is denominated in currencies other than the US dollar, the present value should be calculated in US dollars considering the exchange rate vis-à-vis the US dollar for the immediately preceding business day.

Furthermore, access to the Single Free Exchange Market is allowed to pay financial sector debt principal in the following cases:

- (1) Settlement of financial stand-by loans granted by local institutions, insofar as the operation they are backing has automatic access to the foreign exchange market.
- (2) Liabilities covered by Communication "A" 3940, not earlier than necessary to pay the debt upon maturity, pursuant to proposed refinancing approved by the Central Bank.



- (3) Financial institutions that do not have any outstanding liabilities to the Central Bank in terms of section 17, paragraphs b, c, and f of the BCRA Charter may settle their external financial liabilities in advance under the same conditions as the nonfinancial private sector, except for those relating to certificates of deposit converted into Argentine pesos pursuant to Communication "A" 3648.

If the institution wishes to settle liabilities from credit lines involving certificates of deposit converted into Argentine pesos pursuant to Communication "A" 3648, the operation shall be performed as a credit line assignment to another local financial institution, so that the creditor complies with item 5 of such communication.

- (4) The remaining operations, as early as necessary, so that payment is made to the creditor upon the maturity date stipulated in the agreements.

#### General requirements

- All advance principal payments must be made to the creditor or to the payment agent for immediate payment to the creditor, and the prepaid debt portion ceases to accrue interest as from the actual payment date.
- Before processing any external debt interest or principal payment, the institutions involved should make sure the debtor has submitted, if appropriate, the debt statement pursuant to the reporting system provided by Communication "A" 3602, dated 5/7/02, and comply with other requirements set forth in item 4 of Communication "A" 4177.
- The companies that purchase foreign assets for direct investment are required to prove, before accessing the foreign exchange market, that they have repatriated and settled the resulting income. This requirement shall have to be met when the companies needed the Central Bank's prior consent to access the foreign exchange market due to the amount of the purchase and the operation was totally or partially financed with foreign funds.

#### Other provisions

- (1) Access to the foreign exchange market to settle liabilities with foreign institutions on account of export credit discounts with recourse due to the importer's failure to comply with the obligation is regulated by rules governing access to the foreign exchange market to settle financial loans, insofar as requirements in item 2.f. of Communication "A" 4377 are not met.
- (2) In cases of mergers, starting on the date the merger is recorded in the Public Registry of Commerce, the merging or the absorbing company will have access to the foreign exchange market to make principal and interest payments on account of merged companies' external liabilities, insofar as:
  - (a) The merging or the absorbing company has submitted a note to the BCRA External Transactions and Foreign Exchange Manager through a financial institution, specifying debt securities issued and external liabilities acquired as a result of the merger, which should be previously validated in the dissolved company's debt statement, pursuant to Communication "A" 3602 and supplementary communications; and
  - (b) The financial institution involved has certified in the abovementioned note that the information contained therein is consistent with certificates of validation of the reporting system provided by Communication "A" 3602 and supplementary communications.
- (3) In the case of external debt refinancing processes in nonfinancial private sector companies, nonresident creditors may be offered to agree to the same





refinancing terms as external debt creditors on account of both principal and interest of domestic debt in foreign currency, insofar as:

- (a) The local company has incurred liabilities in foreign currency to a local financial institution before 12/4/01, which are later assigned to a nonresident by the local financial institution;
- (b) Liabilities have not been converted into Argentine pesos;
- (c) The set of restructured principal and interest liabilities does not account for over 15 percent of the original debt to nonresident creditors that is refinanced in the global refinancing agreement with the company's nonresident creditors; and
- (d) The company offers only one restructuring option program to all nonresident creditors holding outstanding debt in foreign currency as of 12/31/03;
- (e) The company submits an affidavit to the Central Bank External Transactions and Foreign Exchange Manager through a financial institution, specifying refinanced external and domestic liabilities to nonresident creditors under the scheme outlined above.

Once the above liabilities are included in the external restructuring, they are subject to foreign exchange regulations in terms of market access for external debt involving financial loans or debt securities —depending on the refinancing modality used by the debtor and the future holders' residence.

Reference: Communications "A" 3602, 3648, 4177, 4203, 4215, 4324, 4354, 4359, 4377, 4561, 4634.

## **2.e. Foreign exchange sales to nonresidents**

Nonresidents (as per the definition provided in chapter IV of the IMF's fifth edition of the Balance of Payments Manual) may access the Single Free Exchange Market to purchase foreign exchange to be transferred to their accounts with foreign banks with funds collected domestically from:

- a. Cash import, services, income, and other current transfers receipts —items included in the balance of payment current account— on account of which the resident would have accessed the foreign exchange market pursuant to the relevant exchange regulations;
- b. Principal installments of federal government debt issued in foreign currency, proving that foreign exchange received has been settled through the foreign exchange market;
- c. Export receipts credited to an account with a local institution from operations performed through LAIA-Dominican Republic payments agreements and reciprocal credit, and bilateral agreements and credit with the Russian Federation and Malaysia, whose credits have been discounted by foreign institutions, insofar as the exporter has repatriated and settled funds from abroad on account of the discount through the Single Free Exchange Market;
- d. Residents' external liabilities from Argentine goods and services imports and nonresidents' financial liabilities from foreign loans, validated by the external debt statement (Communication "A" 3602 and supplementary communications);
- e. Credit recovery in local bankruptcies;
- f. Direct investment sales in the nonfinancial private sector;



- g. Definite liquidation of direct investment in the national nonfinancial private sector; and
- h. Service or liquidation through sale of other portfolio investment in foreign currency (and its income) that has been repatriated, such as portfolio investment in local companies' stocks, investment in local mutual funds and trust funds, purchase of loans granted to residents by local banks, purchase of bills and promissory notes on account of domestic commercial operations, investment in domestic bonds issued in Argentine pesos, and purchases of other domestic credit.

Operations included in items (a), (b), (c), (d), and (e) are not limited in amount. However, when the set of transactions included in items (f), (g), and (h) exceed the equivalent of USD 2,000,000 a month, or those in item h exceed USD 500,000 per month per nonresident individual or legal entity, the Central Bank's prior consent is required.

Where applicable, investment funds must remain in the country at least for the applicable minimum term.

New transactions settled through the Single Free Exchange Market as from 5/26/05, when Ministry of Economy and Production Resolution 292/2005 became effective, must remain in the country for at least 365 days.

Foreign exchange operations with nonresidents that are not included in the above items and exceed the monthly ceiling of USD 5,000 must be previously approved by the Central Bank.

Foreign exchange sales to international agencies and official lending agencies are exempt from these restrictions.

Reference: Communications "A" 3661, 3866, 3944, 3999, 4129, 4323, 4354, 4359, 4640, "C" 39316.

## **2.f. Financial derivatives**

### Transactions performed and settled in the country

Futures transactions in regulated markets, forwards, options, and other derivatives transactions that are settled in the country and cleared in domestic currency are not subject to any foreign exchange requirement.

### External transactions

The Central Bank's prior consent is not necessary to access the foreign exchange market for premium payments, guarantees, or settlements for the following futures, forwards, options, and other derivatives transactions:

1. Transactions performed through the financial system on account of the purchase of options to hedge variable-rate time deposits made pursuant to requirements and modalities set forth in item 2.5 of regulations on "Time deposits and term investment," when approved as provided in item 2.5.3. of such regulations;
2. Foreign currency hedge agreements by financial institutions to hedge their own lending positions within their general exchange position;
3. Foreign currency and interest rate hedge agreements by the financial sector and the nonfinancial private sector on account of their external liabilities reported and validated pursuant to the reporting system outlined in Communication "A" 3602 and supplementary communications. During the life of the agreements, hedging cannot exceed external liabilities in the hedged currency or interest rate risk.



4. Commodity prices hedge agreements between Argentine exporters and/or importers insofar as they exclusively relate to hedges of own Argentine foreign trade operations;
5. External financing operations in the form of repos, provided their terms are consistent with the minimum term applicable the date they are agreed upon. In order to be settled, these operations must be validated pursuant to regulations on debt statements outlined in Communication "A" 3602 and supplementary communications; and
6. Foreign currency hedge agreements by exporters to hedge themselves against risks from outstanding shipments.

External transactions involving access to the foreign exchange market to hedge operations under items 1 to 6 above may only be performed:

- a. In institutionalized international financial markets;
- b. With foreign banks meeting the requirements in item (b) of Communication "A" 3661 and supplementary communications; and
- c. With financial institutions authorized by law to perform this type of operations, insofar as they are controlled by banks meeting the requirements in the preceding item.

The remaining futures, forwards, options, and other derivatives external transactions require the Central Bank's prior consent, both to be arranged and subsequently settled by accessing the foreign exchange market.

In order to access the Single Free Exchange Market to conduct the above operations, it is mandatory to agree to the obligation to repatriate and settle through the Single Free Exchange Market —within 5 business days following the date of the operation— funds in favor of the local customer resulting from the operation or from the release of funds held as security.

Failure to comply with the above will require the institution having provided access to the market to report it to the Nonfinancial Institution Surveillance Manager (in the case of nonfinancial private sector operations) or the relevant Financial Institution Surveillance Manager (in the case of financial sector operations).

Reference: Communications "A" 3661, 4077, 4164, 4285, 4440, "C" 44047

## **2.g. Residents' foreign asset accumulation**

Resident individuals and legal entities (as per the definition provided in chapter IV of the IMF's fifth edition of the Balance of Payments Manual) outside the financial sector may access the Single Free Exchange Market to purchase foreign exchange with a monthly ceiling in the following cases: real estate investment abroad, loans to nonresidents, residents' external direct investment contributions, individuals' portfolio investment abroad, other residents' investment abroad, legal entities' portfolio investment abroad, foreign currency purchases to be held in the country and traveler check purchases, mutual fund portfolio investment, mutual fund bill purchases and grants.

The monthly ceiling for all financial institutions is currently USD 2,000,000. It may be higher if the amount paid in Argentine pesos for the client's purchases on account of the above items does not exceed the total amount in Argentine pesos resulting from the addition of export duties paid plus three times the amount of the tax on bank current account debits and credits, paid by the taxpayer to the Federal Tax Authority in the calendar month immediately preceding the previous month.



The Single Free Exchange Market may be accessed pursuant to regulations and restrictions above only insofar as, as at the date of access, there are no external principal and interest arrears. This requirement is not applicable to bill and traveler check purchases not exceeding the equivalent to USD 10,000 per calendar month.

To this end, external liabilities with no maturity will be considered in arrears once 180 consecutive days from the date they are incurred have elapsed. Liabilities arising from goods imports will not be considered unpaid and due insofar as 180 consecutive days term after shipment have not elapsed.

The monthly ceiling is raised in the following cases:

1. Individuals and legal entities outside the financial sector making portfolio investment abroad, insofar as funds and their income are used, pursuant to Communication "A" 4178 and supplementary communications, within 360 days of having accessed the foreign exchange market, to settle financial external debt principal and interest from securities issued abroad, financial loans syndicated abroad, financial loans granted by foreign banks, and other direct liabilities or liabilities backed by foreign official lending agencies and insofar as the accumulated amount in foreign currency purchases does not exceed the total outstanding amount as at the date the foreign exchange market is accessed for liabilities outstanding as at 12/31/05, plus debt on account of interests calculated up to the next maturity.
2. Resident individuals and legal entities outside the financial sector are exempt from the ceiling set for external asset accumulation, insofar as funds that exceed the abovementioned ceiling are allocated to the subscription of primary issues in foreign currency of federal government securities.

Mutual funds may access the Single Free Exchange Market pursuant to exchange regulations in force at the time of operation.

Reference: Communications "A" 4086, 4128, 4178, 4306, 4349, 4390, 4515, 4570, "C" 39316.

## **2.h. Authorized institutions' General Exchange Position**

The General Exchange Position (GEP) comprises all the institution's external liquid assets, such as: reserves in gold coins and bullions; foreign currency; demand deposits with foreign banks; investment in foreign government securities issued by OECD member countries with a sovereign debt internationally rated "AA" or above; certificates of fixed term deposits with foreign banking institutions with an international rating of "AA" or above; and correspondent debit and credit balances. It also includes purchases and sales of these assets already arranged and pending settlement involving foreign exchange transactions with clients within a term not exceeding 2 business days.

Investment in foreign government securities and certificates of fixed term deposits meeting the above requirements, within GEP ceilings, are not subject to limitations in items 5.2 and 5.3 of Communication "A" 4311 on "Lending Policy."

The GEP does not include, however, third parties' external assets held in custody, correspondent balances for third-party outstanding transfers, term sales and purchases of foreign exchange or external securities, nor direct investment abroad.

In addition, for a term not exceeding that set by Communication "A" 4321 and supplementary communications, financial institutions may hold in their correspondent accounts funds from financial debt placements or shares issued abroad as third-party outstanding transfers. The receipt for the operation should be made when funds begin to comprise the institution's General Exchange Position.



The GEP ceiling is calculated every month and therefore updated the first business day of the month. This ceiling is set at 15 percent of the equivalent in US dollars to the computable equity at the end of the month immediately preceding the last month when filing with the BCRA has already expired, pursuant to the relevant reporting system regulations. It will be increased in an amount equivalent in US dollars to 5 percent of the total amount traded by the institution on account of foreign exchange purchases and sales in the calendar month prior to the immediately preceding one, and in 2 percent of total demand and time deposits domestically held and payable in foreign currency, excluding deposits held in custody, recorded by the institution at the end of the calendar month prior to the immediately preceding month. If the ceiling does not exceed USD 5,000,000, this figure will be considered its floor.

Floors will be raised in USD 7,000,000 when the financial institution performs foreign exchange transactions with 15 or more locations. In addition, they will be cumulatively raised in up to the equivalent of USD 2,000,000 on account of foreign currency holdings other than US dollars and/or euro; in up to USD 1,000,000 for checks issued against foreign banks and purchased from third parties to be credited to correspondent accounts; and in up to the equivalent of USD 3,000,000 for US dollar or euro balances sent to the United States Federal Reserve or the European Central Bank still to be credited 72 hours after being sent.

Institutions authorized to trade in foreign currency failing to comply with GEP ceilings or exchange reporting regulations should refrain from trading in foreign exchange until they are in compliance with the above.

Institutions authorized to trade in foreign currency require the Central Bank's prior consent to perform their own purchases when payment is made against delivery of foreign currency or other external assets comprising the GEP, with the following exceptions:

- (1) Settlements of repurchases of securities used for external financing in the form of repos;
- (2) Transactions performed with funds from their General Exchange Position by accessing the domestic foreign exchange market to meet their foreign exchange needs to be bought and sold in self-regulated stock exchanges involving securities relating to own operations or to resident and nonresident clients' transactions, insofar as the net foreign exchange purchase on the domestic foreign exchange market to purchase these securities or, in turn, the resulting net foreign exchange sale do not exceed in the past three calendar months, and in each of the first three statistical weeks of each month, 5 percent of the computable equity in US dollars at the reference exchange rate, considered in the calculation of the GEP ceiling for the month under review.

As from 10/26/05, financial institutions are exempt from the above ceilings for their own primary subscription of federal government securities and corporate bonds listed and traded in self-regulated markets and denominated in foreign currency; and

- (3) Purchases by local financial institutions of loans granted by foreign financial institutions to nonfinancial private sector residents, insofar as those loans may be applied to the foreign currency deposit lending capacity (Section 2 of regulations on "Lending Policy").

Reference: Communications "A" 3640, 3645, 3649, 4088, 4308, 4322, 4347, 4430, 4443, 4552, 4604, "C" 43504.

### **3. OTHER**



### **3.a. Foreign exchange record**

Regulations provided in Communication "A" 4519 were replaced by Communication "A" 4550, stipulating new regulations for foreign exchange operation recording. Thus, operations performed by resident individuals or agents on behalf of nonresident individuals or legal entities, it was established that the CUIT, CUIL or CDI number of the client performing the operation should be recorded in the relevant receipt. For operations not exceeding the equivalent of ARS 5,000 a day per institution, it is also acceptable to record the national identity card number, the civic booklet number, or the military service record number.

Where the CUIT, CUIL, or CDI number is stated in the receipt, before the operation is performed, institutions authorized to trade in foreign exchange must have checked the client identification data against those in the Federal Tax Authority Single Taxpayer Register (PUCAFIP).

This information may be accessed online by authorized institutions at <http://www.afip.gov.ar/mercurio/consultapadron/buscarcontribuyente.aspx>- "Consulta Padrón AFIP - Operaciones de Cambio," or consult the Central Bank database. These enquiries can be made by entering the ID or CUIT/CUIL/CDI number.

For nonresident foreign exchange transactions, there are no changes in regulations effective to date in terms of identification or record.

Foreign exchange transactions may be performed using electronic and digital signatures, insofar as all requirements in Communication "A" 4345 and "A" 4463 are met.

### **3.b. Operations with clients**

Institutions authorized to trade in foreign exchange are not allowed to make swap or arbitrage operations with their clients. Transactions by embassies and international agencies while performing their duties are exempt from this restriction.

Foreign exchange operations as inflows or outflows from or allocated to the sale or purchase of securities, or other operations by intermediaries comprised or not in the Financial Institutions Act —excluding Pension Fund Management Agencies and mutual funds— requested by clients or on their behalf, must be performed in the client's and not the intermediary's name, pursuant to regulations applicable according to the client's residence. Operations will be performed in the intermediary's name and CUIT provided foreign exchange operations relate to the intermediary's own holdings.

#### **❖ ATM operations**

Purchases of foreign exchange to be held in Argentina, sales of bills held by residents, and foreign exchange transactions related to tourism and travel may be conducted at any time of the day through the local ATM networks and via electronic transfers among the client's accounts with local institutions.

#### **❖ Operations with resident clients**

In foreign exchange operations between institutions authorized to trade in foreign exchange and their clients, clients have to make both foreign exchange and ARS operations in their name. In this sense, noncash transactions must relate to activity in the client's account or in joint accounts of which the individual or legal entity performing the operation is one of the holders.



Institutions authorized to trade in foreign exchange may only perform foreign exchange purchases and sales to residents relating to portfolio investment abroad or their repatriation insofar as foreign exchange is transferred from or to the source/target account/subaccount held by the resident client conducting the transaction in the foreign exchange market. The name of the foreign institution with which the client holds the account and the account number must be stated in the receipt.

Communication "A" 4603 establishes the conditions under which the above is not applicable: when the funds traded through the foreign exchange market go to or come from an external account held by local brokers authorized by the Argentine Securities Commission, or relate to the settlement of external transfers on account of services payments for local securities held in local custody, if the payment is not made in foreign currency notes.

❖ **Operations with nonresident clients**

For noncash foreign exchange purchases from nonresidents, funds should be credited to the nonresident's or their agent's domestic account. Similarly, for noncash foreign exchange sales to nonresident clients pursuant to relevant foreign exchange regulations, funds may be debited from the client's or their agent's account or, in the case of blocks of shares in direct investment companies, from the purchasing company's account.

Pursuant to Communication "C" 43075, foreign funds transferred by nonresidents to purchase real property under construction in installments in Argentina may be recorded as foreign exchange inflows for direct investment and thus be exempt from the one-year interest-free statutory deposit of 30 percent of the funds otherwise required.

**3.c. Operations by authorized institutions**

The Central Bank's prior consent is not required for swap and arbitrage operations conducted by institutions authorized to trade in foreign exchange with:

- i. Local official banks' branches or agencies abroad;
- ii. Foreign financial institutions wholly- or majority-owned by foreign States;
- iii. Multilateral development banks;
- iv. Foreign banks authorized by the Central Bank to open branches in the country or to acquire equity ownership in local banking institutions;
- v. Other foreign banks whose headquarters or parent bank is located in one of the Basel Committee for Banking Supervision member countries that, in addition, is internationally rated "A" or above by any of the rating agencies registered with the Central Bank of Argentina.

Settlement of foreign exchange transactions between institutions authorized to trade in foreign exchange through the delivery of Argentine peso bills is forbidden.

**3.d. Capital market**

Securities transactions conducted in self-regulated stock and securities exchanges shall be paid through one of the following mechanisms: (a) in ARS, using the various modalities allowed by the payments systems; (b) in foreign currency, through electronic transfer from and to call accounts with local financial institutions; and (c) through wire transfer on accounts abroad. In no case whatsoever may these operations involving the purchase and sale of securities be paid in foreign currency or through foreign currency deposits on custody or third parties' accounts.



### **3.e. Survey of financial and nonfinancial private sector securities issues and other external liabilities**

Communication "A" 3602, dated 5/7/02, established a system to survey external liabilities and securities issues, which requires individuals and legal entities in the financial and nonfinancial private sector to submit a debt statement by the end of each calendar quarter, beginning with liabilities as at December 31, 2001.

### **3.f. Direct investment survey**

Communication "A" 4237, dated 11/10/04, established a system to survey direct investment in Argentina by nonresidents and Argentine residents' direct investment abroad. The first related statements belong to the annual or semiannual period ended December 31, 2004, and include:

**3.f.1. Direct investment in Argentina by nonresidents:** Includes every legal entity with a share in nonresidents' direct investment and nonresident real estate agents, who must submit a statement of nonresident direct investment in Argentina and its changes during the reported period. Also included are individuals and legal entities that at the beginning of the reported period had this type of investment and liquidated them within six months before the reference date.

The statement shall be made with reference to the end of each calendar six-month period.

The reporting system established through Communication "A" 4305 provided that the survey is mandatory if the value of nonresidents' holdings in the country, considering their share in the company's accounting net equity and/or the set of real estate fiscal values, equals or exceeds the equivalent of USD 500,000. Otherwise, the statement is optional.

**3.f.2. Argentine residents' direct investment abroad:** Includes all individuals and legal entities with direct investment abroad, through a financial or other share in companies of any type, and real estate, who must submit a statement of their direct investment holdings abroad, including real estate, and their changes during the reported period. Also included are holdings by individuals or legal entities who at the beginning of the reported period had this type of investment and liquidated them within six months (for semiannual statements) or twelve months (for annual statements) before the reference date.

The reporting system established through Communication "A" 4305 provided that the survey is mandatory if the value of residents' holdings abroad, considering the sum of their share in the foreign company's accounting net equity and/or the foreign real estate fiscal values, equals or exceeds the equivalent of USD 1,000,000.

If the value of these holdings equals or exceeds the equivalent of USD 1,000,000 and equals or is inferior to USD 5,000,000, the statement may be submitted on an annual basis by the end of each calendar year, instead of being submitted every six months, as provided in the survey.

Should holdings not reach the equivalent to USD 1,000,000, the statement is optional.

Reference: Communications "A" 3602, 3891, 4085, 4176, 4237, 4305, 4308, 4345, 4377, 4463, 4519, 4541, 4550, 4560, 4603, "C" 40595, 41003, 43075, 44049.

## **II. Foreign exchange measures adopted during 2007**





There follows a summary of the various measures that became effective this year.



**ANNEX: Main foreign exchange measures- January 2007**

		Measures issued on January 16, 2007
Export receipts		
Import payments		
Capital. Income	Minimum terms	
	Deposit - Executive Order 616/2005	Com B 8901 provides for the exception to deposit Executive Order 616/05 pursuant to Ministry of Economy and Production Resolution 1076/2006, dated 12/21/06 (published in the Official Bulletin on 01/05/07).
Financial debt		
Foreign exchange sales to nonresidents		
Financial derivatives		
NFPS external assets		
General Exchange Position		
Direct investment		
Other		



**ANNEX: Main foreign exchange measures- March 2007**

		Measures issued on March 5, 2007	Measures issued on March 13, 2007
Export receipts			Pursuant to Communication "A" 4639, foreign exchange receipts from goods exports may be applied to make principal and interest payments on new financial debt incurred by exporters on account of bonds issued abroad and loans by foreign banks and foreign currency loans by local financial institutions funded with foreign credit lines, or with other funding sources from local institutions, when specifically allowed by applicable regulations, as long as the requirements on term, average life and interest rate on the financing operation and all other requirements in Communication "A" 4639 are met.
Capital. Income	Minimum terms		
	Deposit - Executive Order 616/2005	Foreign currency inflows for direct investment in the country are exempt from the statutory deposit if funds are applied to refund totally or partially depleted capital stock or to cover negative net equity in branches with no assigned capital. Only the necessary amounts will be exempt from the deposit.	
		Communication "A" 4633 extended the terms set in Communication "A" 4554 to submit the documentary evidence of the definitive capitalization of a nonresident's direct investment; where there is no documentary evidence, a deposit shall be made when the term expires and shall be released 365 days following the deposit date or when the documentation is submitted.	
	Deposits of foreign exchange from financial loans may be released insofar as the capitalization of such loans by direct investors in the lending corporation is proven, pursuant to Communication "A" 4447, Communication "A" 4554 and supplementary communications.		
Financial debt			The companies that purchase foreign assets for direct investment, access the MULC with the BCRA's prior consent and totally or partially finance their operations with foreign fund, are required to prove, before accessing the MULC to service or amortize such financing, that they have repatriated and settled the resulting income.
Foreign exchange sales to nonresidents			BANDES is included within the existing official credit agencies.



**ANNEX: Main foreign exchange measures- March 2007**

		<b>Measures issued on March 15, 2007</b>	<b>Measures issued on March 22, 2007</b>
Export receipts		The term for foreign exchange inflows on account of capital and technology goods exports and turnkey exports comprised in Annex 19 to Executive Order 690/2002 and supplementary orders, for locally financed operations, may be extended during the financing term.	
Capital. Income	Minimum terms		The term to repatriate and settle new financial loans in the MULC is extended to 365 consecutive days following the date when funds are disbursed.
	Deposit - Executive Order 616/2005		
Financial debt			The MULC shall be accessed to pay interest services on the public debt when income is accrued as from the date foreign currency is sold in the MULC, or the date when funds are disbursed, if they were to be credited to correspondent accounts with institutions authorized to settle them in the local exchange market, within the two business days following the disbursement.
Foreign exchange sales to nonresidents			