

**PREPARATION FOR JOINING EU BY LIBERALIZING EXCHANGE REGULATIONS,
MONEY AND CAPITAL MARKETS IN HUNGARY**

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In the summer of 2001 pursuant to Government Decree No. 88/2001 (VI.15.) on the Implementation of the Foreign Exchange Act (“Decree”), the total liberalization of the foreign exchange regime took place, whereby the previous restrictions were repealed resulting in the Hungarian Forint (HUF) now being freely convertible. The aim of this article is both to analyze the background leading up to such liberalization and the effects arising from such amendments of the Foreign Exchange Act.

1. Background of the liberalization

In the course of Hungary joining the OECD, Hungary undertook the obligation that: (i) in accordance with those restrictions in force in 1996 no new restrictions would be instituted (ii) the restrictions which were in force at the moment Hungary become a member should eventually be abolished and (iii) in relation to the other OECD members the principle of equal treatment should be implemented.

The Agreement Association concluded with the European Union also set forth certain obligations on point. Pursuant to such Agreement - which were ratified by Hungary pursuant to the Act I of 1994 - Hungary undertook to promote the implementation of one of the European Union’s main principles: the free flow of capital, as well as the repeal of the previous restrictions relating to the foreign exchange regime.

2. Amendment to Foreign Exchange Act

The Decree established that as of June 16, 2001 foreign exchange approval is no longer required for Hungarian citizens, *inter alia*, (i) to acquire shares, or bonds issued by foreign issuers abroad or to acquire other foreign marketable instruments, even with the involvement of a foreign dealer, (ii) to open and keep accounts abroad and keep foreign exchange (or securities) therein, and (iii) to grant loans to non-Hungarians citizens or to borrow from foreign entities both in HUF or in other currencies. Further, payments made in Hungary may be effectuated in a foreign currency. Under the new regulations, foreigners are free to purchase Hungarian securities and other financial market interests without the need to fulfill any filing requirements. However, in case of any transfer or currency exchange transaction between Hungarians and non-Hungarians, the so-called “legal title” of the transaction must be recorded for statistical purposes.

Regarding the fact that payments be effectuated in a foreign currency, it should be noted that HUF shall remain as Hungary’s so-called legal tender. However, while invoices and payments may be

effectuated in a foreign currency, it is regulated that prices shall be indicated in HUF in the shops.

It should also be noted that any financial obligations payable to the public authorities, such as taxes, customs, duties etc. shall be effectuated in HUF. Budgetary expenditures such as subsidies shall also be effectuated in HUF with the exception of such amounts which are naturally effectuated in a foreign exchange, such as the repayment of foreign debts.

Finally, it should be noted that in September 2001, the Hungarian Government submitted a draft bill ("Draft Bill") to Parliament for approval, which would intended to replace the Degree whereby it would govern the legal situation after such amendments. The stated aim of such Draft Bill is to review the definitions and to actually amend Foreign Exchange Act with respect to the HUF's liberalization.

In the Draft Bill a number of definitions remain as indicated in the Foreign Exchange Act such as *resident; nonresident; foreign exchange; foreign currency; convertible currency; payment instrument; non-cash payment instrument etc.* since such definitions are used by other legislation and the non-inclusion of such definitions would most likely result in confusion in this sense.

Although the HUF is freely convertible, pursuant to the Draft Bill, in case of "extraordinary economic crises" as defined in Section 119-120 of the Rome Convention, it is proposed that the government may take temporary restrictive measures pursuant to the request of the National Bank of Hungary for the purpose of preserving the foreign exchange holdings of said National Bank.

Finally, it shall be noted that pursuant to the liberalizations steps mentioned above, Hungary is now on par with the EU with respect to capital transactions.

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