

**EXCHANGE CONTROL REGULATIONS ACT  
CHAPTER 330**

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**EXCHANGE CONTROL REGULATIONS (IRAQ)  
DIRECTIONS, 1990.**

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10th August, 1990

The guidelines draw attention in convenient form to the effect of the provisions contained in the directions.

These directions replace the freeze order issued by Central Bank of The Bahamas on 10th August, 1990.

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## INTRODUCTION

- 1 On 10th August, 1990 The Central Bank of The Bahamas (Central Bank) issued orders freezing Iraqi overseas assets. The present directions which are issued pursuant to Regulation 43 of Exchange Control Regulations, Chapter 330, have the effect of freezing certain Iraqi assets held in The Bahamas. These directions replace the earlier freeze order and shall be deemed to have come into operation on the same date, i.e., 10th August, 1990.
- 2 The directions are contained in The Exchange Control Regulations (Iraq) Directions, 1990. Copies may be obtained from The Central Bank.
- 3 Article 2 of the directions reads as follows:- "Except with permission granted by or on behalf of the Controller, no order given by or on behalf of the government of or any person resident in Iraq at the time of the coming into force of these directions or at any later time while these directions are in force, shall be carried out, insofar as the order:-
  - (i) requires the person to whom the order is given to make any payment or to part with any gold or securities; or
  - (ii) requires any change to be made in the persons to whose credit any sum is to stand or to whose order any gold or securities is to be held."
- 4 These directions apply to all persons (including bodies corporate) in The Bahamas and to all other persons, wherever they may be, who are ordinarily resident in The Bahamas.

### Residents of Iraq

- 5 For the purposes of these directions, a resident of Iraq is any person, including any body corporate, normally resident in that country on 10th August, 1990 or at any later time. A branch in Iraq of any business is treated as if the branch were a body corporate resident in Iraq. Orders given by branches outside Iraq of any body corporate resident in Iraq or by branches of any business whose head office is in Iraq shall be deemed to be given on behalf of persons resident in Iraq, irrespective of the location of such branches. Persons resident or becoming resident in Iraq should not subsequently be treated as resident elsewhere without prior reference to The Central Bank.

- 6 Bodies incorporated in The Bahamas whose day-to-day control and management are established in The Bahamas are to be treated for the purposes of these guidelines as resident in The Bahamas unless a controlling interest is held by the government of Iraq.

Residential status should be determined by reference to the facts. Cases of doubt should be referred to The Central Bank.

#### Overseas Branches of Bahamian companies and businesses

- 7 Branches outside The Bahamas of companies incorporated in The Bahamas and of businesses whose head offices are in The Bahamas may continue to comply with orders from persons who are resident in Iraq but permissions will not normally be given to enable orders received by persons subject to the directions from persons resident in Iraq to be transferred to and executed by branches outside The Bahamas.

#### Iraqi Accounts

- 8 The Bahamian dollar, foreign currency and gold bullion accounts of persons resident in Iraq held in The Bahamas with institutions licensed under The Banks and Trust Companies Regulation Act, Chapter 287 ("banks") should be designated and are referred to below as "Iraqi Accounts". Funds held by solicitors, accountants, stockbrokers, etc., on behalf of Iraqi residents, shall be placed in a separate account.

#### Payments Ordered by or on behalf of Residents of Iraq

- 9 Any payment required by an order given by or on behalf of the government of Iraq or a resident of Iraq to a person subject to the directions (see paragraph 4) is prohibited except with permission. Permission will not normally be given for any such payment to any account held outside The Bahamas. Permission is hereby given for any such payment whether in Bahamian dollars or in foreign currency to be made to an "Iraqi Account". No payment or transfer may be made from one "Iraqi Account" to another "Iraqi Account" without permission, which will not normally be given.

#### Balances on "Iraqi Accounts"

- 10 Permission will not normally be granted for any change to be made in the persons to whose credit any sum held on an "Iraqi Account" is to stand.

## Payments from "Iraqi Accounts"

- 11 The Central Bank will consider applications to debit "Iraqi Accounts" for the following purposes:-
- (a) living, medical, educational and similar expenses of residents of Iraq in The Bahamas. Payments to meet travel expenditure by residents of Iraq leaving The Bahamas will also be considered. For all of these purposes, reasonable amounts will normally be permitted;
  - (b) payments in respect of goods which have been shipped or otherwise despatched to The Bahamas. Production of any necessary import licence/document and evidence of shipment or despatch will be required;
  - (c) payments to reimburse banks in The Bahamas who have made payments in respect of Iraqi trade under irrevocable letters of credit;
  - (d) payments for charitable purposes.
- 12 For the time being, permission will not normally be granted for "Iraqi Accounts" to be debited for the following purposes:-
- (a) payments to other "Iraqi Accounts";
  - (b) payment of interest, or repayment of capital, on borrowings by residents of Iraq;
  - (c) payments in connection with the operations of vessels and aircraft owned by, or on charter to, residents of Iraq;
  - (d) payment of insurance premiums.
- 13 Permission is hereby granted for the payment from "Iraqi Accounts" of:-
- (a) charges to banks in The Bahamas;
  - (b) sums due to the Bahamian Government and its other agencies, provided no overdraft is thereby created on an "Iraqi Account";
  - (c) distributions and payments to residents of The Bahamas under wills and intestacies and under trusts set up before 10th August, 1990.



## Provision of cash to residents of Iraq in The Bahamas

- 14 Banks and other persons in The Bahamas may provide cash in reasonable amounts in Bahamian dollars in The Bahamas to residents of Iraq:-
- (a) in exchange for foreign currency (other than Iraqi or Kuwaiti dinars) of equivalent value;
  - (b) against cheques, travellers' cheques, travellers' letters of credit, credit and debit cards and other payment instruments except for those payable in Iraqi dinars;
  - (c) through automated teller machines.

## Payments by branches in The Bahamas of companies resident in Iraq

- 15 Permission is hereby given for branches in The Bahamas of Iraqi companies or businesses resident in Iraq to make salary and pension payments to persons living in The Bahamas.
- 16 The Central Bank will consider applications from branches in The Bahamas of companies or businesses resident in Iraq to make other payments of a current nature. Payments of a capital nature will not normally be permitted.

## Pensions, etc., due to residents of Iraq

- 17 Any necessary permission is hereby granted for the payment outside The Bahamas of pensions due to residents of Iraq and of widows' and widowers' annuities associated with deceased husbands' and wives' employments.

## Credits, loans and overdrafts

- 18 For the time being, permissions will not normally be granted to enable existing or intending lenders subject to these directions (see paragraph 4 above) to comply with any order given by or on behalf of a person resident of Iraq to make any payment - without such permission no further drawings may be made under existing facilities. No new arrangements should be entered into, no bills of exchange drawn by a resident of Iraq should be accepted, and no credits, discount or

acceptance facilities of any sort should be issued, confirmed or advised for account of, or in favour of, or on behalf of, a resident of Iraq.

- 19 Any necessary permission is, however, hereby given for irrevocable credits opened before 10th August, 1990 in respect of transactions with Iraq to be honoured. "Iraqi Accounts" may not be debited in reimbursement except where otherwise permitted in these guidelines.

#### Maturing bills of exchange

- 20 All necessary permissions are hereby granted for maturing bills of exchange drawn by residents of Iraq and accepted before 10th August, 1990 by persons subject to the directions to be paid by the acceptor on maturity. "Iraqi Accounts" may not be debited in reimbursement without permission.

#### Servicing of syndicated loans

- 21 Any necessary permission will be granted for banks which are agents for syndicated loans and credits to the government or residents of Iraq to distribute capital repayments and interest payments to participants in the syndicates, provided that the necessary funds are received from outside The Bahamas. Applications for such permission should be made to The Central Bank. Permission will not normally be given to use balances on "Iraqi Accounts".
- 22 Persons subject to these directions who have made loans to residents of Iraq before 10th August, 1990 and who wish to roll-over such loans in accordance with the terms of the loan agreement should refer to The Central Bank. Attention should be drawn to the reasons for any reduction in the interest rate or change in currency composition. Permission will not normally be given to enable the drawn down amount of the loan or credit to be increased on roll-over.

#### Gold

- 23 Permission is required for persons subject to these directions to do anything which involves parting with any gold coin or gold bullion wherever located or making any change in the persons to whose order any gold coin or gold bullion is to be held in compliance with an order given by or on behalf of the government or residents of Iraq. Such permission will not normally be given.

## Securities

24 The term "securities" includes-

- (a) shares, stocks, bonds, notes, debentures, debenture stock, certificates of deposit and Treasury and other government debt instruments;
- (b) a deposit receipt in respect of the deposit of securities;
- (c) a unit or a sub-unit of a unit trust;
- (d) a negotiable receipt or other negotiable certificate or document evidencing the deposit of a sum of money.
- (e) a promissory note;
- (f) an annuity or a life insurance policy or other contracts entered into with an insurance company for securing a payment in the future of any capital sums or of annuity;
- (g) a warrant conferring an option to acquire a security;
- (h) a share in an oil royalty;

but excludes bills of exchange.

- 25 Permission is required for persons subject to the directions to do anything which involves parting with any securities or making any change in the persons to whose order any securities are to be held in compliance with an order given by or on behalf of residents of Iraq.
- 26 The Central Bank will consider applications from persons engaged in the discretionary management of portfolios of securities on behalf of residents of Iraq to continue to manage the portfolios in question. Permission will not normally be given to allow the release of portfolios from Bahamian control.
- 27 Where securities are registered in the name of a person resident in Iraq, no order requiring payments of capital monies, dividends or interest to any person outside The Bahamas may be complied with. Permission is hereby given for such payments to be made to "Iraqi Accounts". Such permission is also given where persons subject to the directions hold bearer securities for account of persons resident in Iraq.

## **Iraqi securities**

- 28 No permissions are necessary for transfers of securities issued by residents of Iraq except when a person subject to the directions is required, by order given by or on behalf of a resident of Iraq, to part with any such security or to make any change in the persons to whose order any such security is to be held.
- 29 Applications should be made to The Central Bank for any permission needed by paying agents in The Bahamas for Iraqi securities to make interest, dividend or redemption payments on, or to buy in, such securities.

## **Pre-zero transactions**

- 30 Any necessary permissions are hereby given for any bargains entered into in the money, foreign exchange, commodities (other than physical oil) and securities markets, including derivatives, or any payment instructions received for immediate execution, involving Iraqi counterparties, prior to 10th August, 1990, to be completed.

## **Oil**

- 31 Permission is hereby given for payments to be made by debit of an "Iraqi Account" for shipments of oil, provided the necessary import licence/documents and evidence of shipment are exhibited.

## **Application and enquiries**

- 32 Application should be made to The Central Bank in respect of any transaction which is not covered by the permissions given in these directions.
- 33 Applications for permissions should be addressed to The Central Bank of The Bahamas and marked for the attention of the Iraq and Kuwait Unit, Bank Supervision Department, Frederick Street, P. O. Box N-4868, Nassau, Bahamas. Applications may also be made by facsimile transmission (809-322-4321).

34 Telephone enquiries may be made to 809-322-2190, 809-322-2130,  
809-322-87331.

The Central Bank  
of The Bahamas  
10th August, 1990



THE EXCHANGE CONTROL REGULATIONS ACT

(Chapter 330)

THE EXCHANGE CONTROL REGULATIONS (IRAQ) DIRECTIONS 1990

In exercise of the powers conferred by Regulation 43 of the Exchange Control Regulations the Controller of Exchange has issued the following Directions -

- Citation and commencement Vol. VI Sub. Leg. Ch. 330. Prohibition of dealing with Iraqi accounts.
- 1.(1) These Directions may be cited as the Exchange Control Regulations (Iraq) Directions 1990 and shall be construed and have effect as one with the Exchange Control Regulations.
- (2) These Directions shall be deemed to have come into operation on 10th August, 1990.
2. Except with permission granted by or on behalf of the Controller, no order given by or on behalf of the government of or any person resident in Iraq at the time of the coming into force of these Directions or at any later time while these Directions are in force, shall be carried out, insofar as the order:-
- (i) requires the person to whom the order is given to make any payment or to part with any gold or securities; or
- (ii) requires any change to be made in the persons to whose credit any sum is to stand or to whose order any gold or securities is to be held.
- Application of Directions. Residents of Iraq.
3. These Directions apply to all persons (including bodies corporate in The Bahamas) and to all other persons, wherever they may be, who are ordinarily resident in the Bahamas
4. For the purposes of these Directions -
- (a) a resident of Iraq is any person, including any body corporate, normally resident in that country on 10th August, 1990 or at any later time. A branch in

Iraq of any business shall be treated as if the branch were a body corporate resident in Iraq. Orders given by branches outside Iraq of any body corporate resident in Iraq or by branches of any business whose head office is in Iraq shall be deemed to be given on behalf of persons resident in Iraq, irrespective of the location of such branches;

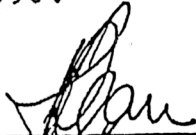
(b) bodies incorporated in The Bahamas whose day-to-day control and management are established in The Bahamas are to be treated for the purposes of these Directions as resident in The Bahamas unless a controlling interest is held by the government of Iraq;

(c) any foreign currency and gold bullion accounts including securities held by or on behalf of persons resident in Iraq in The Bahamas with institutions licensed under the Banks and Trust Companies Regulation Act ( licensees ) are herein referred to as "Iraqi accounts."

Payments                      5.            Any payment out of Iraqi accounts required by ordered by any order given by or on behalf of the government of Iraq or on or a resident of Iraq to a person subject to these directions is prohibited except with permission. behalf of residents of Iraq.

Other                        6.            Funds in Iraqi accounts held by solicitors, Iraqi accountants, stockbrokers etc. on behalf of Iraqi residents funds.            shall be placed in a separate account.

Issued by The Central Bank of The Bahamas  
this 23rd day of August, 1990.

  
Deputy Governor of The Central Bank

Exchange Control Regulation Act  
Chapter 330

Central Bank of The Bahamas  
Guidelines dated 10th August, 1990

Amendment No. 1 dated 28th August, 1990 - Iraq

"Payments ordered by or on behalf of residents of Iraq

9. Any payment required by an order given by or on behalf of the government of Iraq or a resident of Iraq to a person subject to the directions (see paragraph 4) is prohibited except with permission. Permission will not be given for payments to meet calls under contract bonds including performance bonds. Nor will permission normally be given for any payment to any account held outside the Bahamas. Permission is hereby given for any other payment whether in Bahamian dollars or in foreign currency to be made to an "Iraqi Account" in the Bahamas. No payment or transfer may be made from one "Iraqi Account" to another "Iraqi Account" without permission, which will not normally be given."