Amendments to the Foreign Exchange Operations Law

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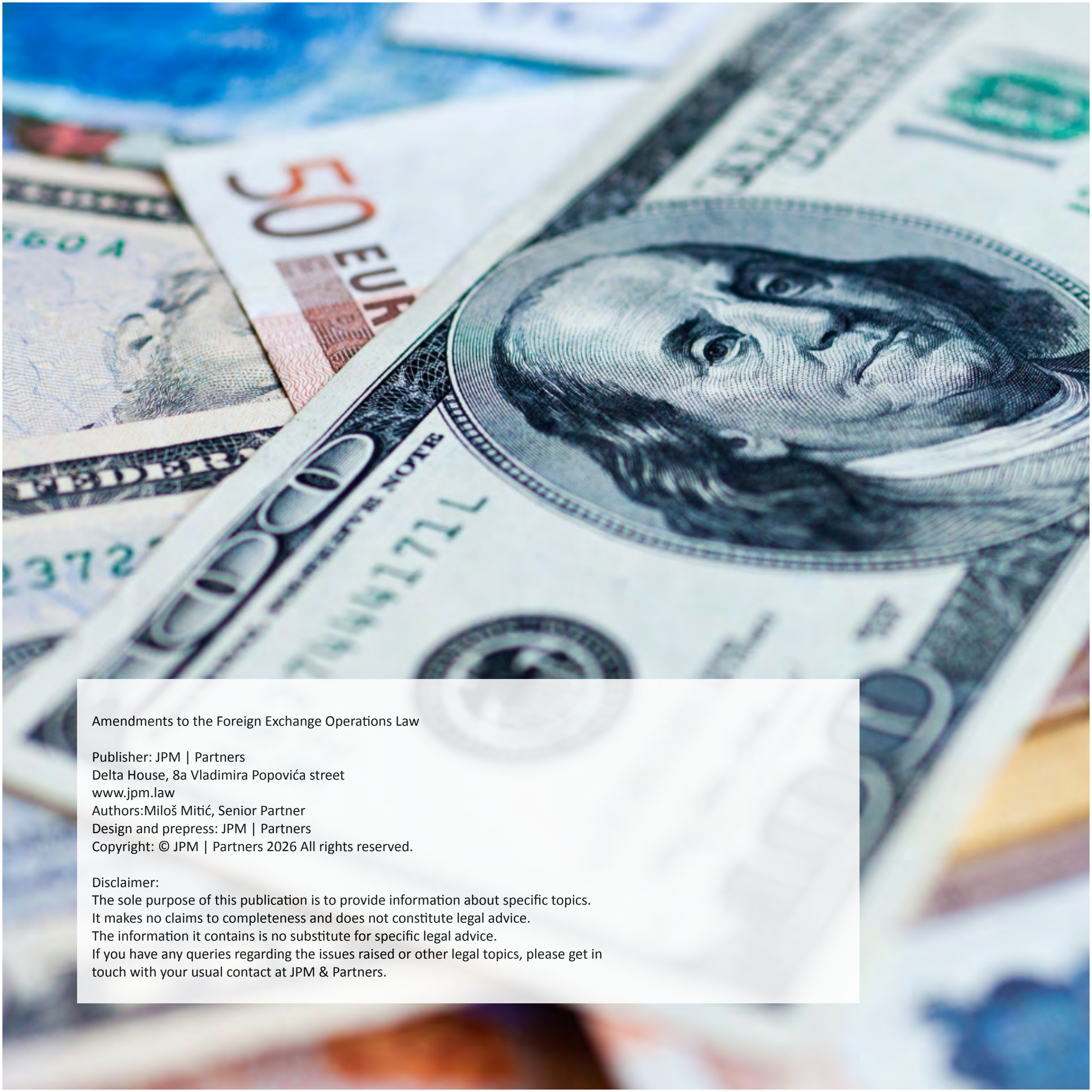

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Publisher: JPM | Partners
Delta House, 8a Vladimira Popovića street
www.jpm.law
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Design and prepress: JPM | Partners

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The amendments to the Foreign Exchange Operations Law of the Federation of Bosnia and Herzegovina (the „Law“) were adopted in May 2026 and they are an important change to the existing legal framework that regulates foreign exchange transactions, international payments, investments, credit relations with foreign countries, and the control of money transfers across the border.

The initial Foreign Exchange Operations Law was adopted in 2010. Since then, the financial market has changed significantly. The development of digital payment methods and growing ties between local and international businesses required the legal framework to be updated.

The main purpose of the amendments is to align the Law with EU legislature and the recommendations of the Financial Action Task Force (FATF) on preventing money laundering and terrorist financing. Another reason for adopting the amendments is to meet the obligations of Bosnia and Herzegovina under the MONEYVAL recommended measures and the Action Plan for their implementation.

The amendments introduce new definitions that reflect the way individuals and businesses use financial services today. Unlike the initial Law from 2010., the amendments recognise new forms of value transfer, including electronic money, digital wallets and virtual currencies, while also providing a more detailed definition of cash.

In practice, this means that businesses and individuals will have clearer guidance on how different types of digital assets and payment instruments are treated under the foreign exchange regulations. The amendments also distinguish between electronic money, which is issued by authorised institutions and represents a regulated payment instrument, and virtual currencies, which are not issued or guaranteed by a central bank and do not constitute official currency. This distinction is relevant for determining which rules apply to specific transactions involving digital assets.

The amendments provide greater flexibility in relation to foreign currency payments and collections. Under the initial Law, foreign currency transactions were permitted only in specifically defined cases, while the amendments expands the scope of permitted transactions. The new rules expressly allow, among other things, salary payments and other employment-related payments to certain categories of employees temporarily working abroad, payments arising from direct investments and investments in real estate, as well as donations for humanitarian, cultural, social and sports purposes. In practice, these changes simplify cross-border transactions and provide businesses and individuals with more options when managing international payments.

Important changes also apply to the offsetting of debts and claims between residents and non-residents. The new amendments require a written agreement that must include information on the contracting parties, the legal basis of the debt and claim, the currency, and the amounts involved. The amendments also prohibit this method of settling obligations for residents whose bank accounts are blocked because of compulsory debt collection. These changes increase transparency and reduce the possibility of abuse.

According to the amendments, residents are allowed to buy and sell shares in the capital of foreign legal entities when such investments are not considered direct investments. Foreign entities are allowed to trade shares in domestic legal entities under conditions stipulated by Company Law and the Law on the Foreign Direct Investments Policy in Bosnia and Herzegovina.

The amendments establish a new framework for the control of cross-border cash transfers. The initial law mainly covered foreign currency, convertible marks, and cheques. The new law introduces a broader definition of cash, which includes banknotes, coins, certain negotiable instruments, precious metals, and prepaid cards. It also introduces the obligation to declare every transfer of cash exceeding EUR 10.000,00, in accordance with the Decision on the Physical Transfer of Cash of the Government of the Federation of Bosnia and Herzegovina, regardless of whether the cash is carried by a person or sent without an accompanying person. The role of customs authorities and the procedure for the temporary seizure of undeclared cash are also regulated in greater detail.

The amendments introduce supervision of virtual currency service providers and grants the Securities Commission of the Federation of Bosnia and Herzegovina responsibilities for keeping records and monitoring compliance with regulations on preventing money laundering and terrorist financing. At the same time, the amendments specify that no public authority guarantees for the value of virtual currencies and are not responsible for any losses suffered by users.

The amendments also increase the level of responsibility for non-compliance with foreign exchange regulations. The fines applicable to companies, banks, entrepreneurs and individuals have been increased compared to the initial Law, which creates a stronger incentive for market participants to comply with the applicable rules.[bh.legal1.1] The fines range from EUR 1,200 to EUR 50,000. Legal entities, whether resident or non-resident, may be fined between EUR 12,000 and EUR 50,000 for making or ordering payments abroad on the basis of false or unreliable documentation or for concluding contracts that do not state the actual value of the transaction. Responsible persons within banks, resident legal entities and non-resident legal entities, as well as resident and non-resident entrepreneurs, are subject to fines ranging from EUR 2,500 to EUR 10,000 for the same offences. Resident and foreign individuals can be fined between EUR 1,200 and EUR 5,000 for the same offences

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