

16 November 2009

His Excellency Mahinda Rajapaksa,  
President of the Democratic Socialist Republic of Sri Lanka  
& Hon Minister of Finance,  
Presidential Secretariat,  
Colombo 01

Your Excellency,

**Proposal by the Central Bank to relax Exchange Control Regulations  
permitting limited Capital Account transactions**

We respectfully draw Your Excellency's kind attention to a recent newspaper report stating that with Sri Lanka's foreign exchange reserves now on the threshold of passing the US\$ 5 billion mark, the Central Bank of Sri Lanka plans to relax current exchange control regulations to allow Sri Lankan Nationals and Companies to invest up to US\$ 500,000 overseas without Central Bank approval from December 2009.

We presume that pursuant to the relaxation, limited capital account transactions will be permitted for investment in the purchase of shares and property, to meet initial set-up costs of a business and other business related investments etc; outside Sri Lanka, by those who hold Sri Lankan nationality passports, and companies incorporated in Sri Lanka.

At the outset we wish to clearly state that Transparency International Sri Lanka (TISL) has no objections to the proposed limited level relaxation of capital account transactions, provided due processes of long term, macro-economic policy impact evaluations are carried out along with associated risk evaluations. We trust that this evaluation will take into account the increases in foreign reserves consequent to the Government's recent borrowings from overseas to shore up the foreign currency reserves. We trust that the proposed relaxation will be introduced in an environment where Sri Lanka has substantial NET foreign currency reserves with SUSTAINABLE macro-economic stability and NOT in a context where fiscal deficits are out of control and public debt is seen to be increasing.

We believe that the new exchange control regime is subject to transparent processes being adopted by all connected persons within strictly applicable governance procedures and regulations, which, in turn clearly define the permitted areas of investment and the applicable continuing commitments. This should include the establishment and implementation of risk management procedures and an independent regulatory control framework including due reporting and accounting of transactions. We also feel that wider consultation with all stake holders will bring in integrity and credibility into the entire process.

In the context of the above, we appeal to Your Excellency, that prior to the proposed limited relaxation of the capital account transactions, to initiate a transparent and comprehensive inquiry by the relevant Regulators and Law Enforcement Authorities (as listed in Annex A) into the recently impacted financial institutions and companies affiliated to them (i.e licensed and unlicensed institutions/companies), and financial institutions where licenses have been suspended. The enquiries could be restricted in the first instance to all such institutions impacted by perceived scams/frauds in excess of Rs 500 million.

Following the inquiry, it will have to be ascertained whether the businesses referred to above,

- a) have directly or indirectly engaged in significant violation of Exchange Control Regulations and/or in illegal foreign currency transactions resulting in the transfer of funds overseas for investment purposes or otherwise, and
- b) Have, as a consequence of the perceived frauds/scams by Directors and Officers of these Companies, caused the state and the relevant stakeholders of these institutions to suffer financial losses.

It will also have to be determined whether any other approved financial institutions (e.g. Banks, Forex dealers and Money Transfer/Exchange dealers) have either been associated with or have assisted in any unauthorized foreign exchange transfers to take place or for misrepresentation of facts or cover up of such frauds/scams.

Another area for inquiry will be to ascertain whether any illegal foreign exchange transfers have taken place or have been facilitated due to the relevant Regulators and Law Enforcement Agencies being negligent or by having in place weak, ineffective and incomplete control processes.

Based on the findings, action will have to be instituted against any errant institutions and their directors and officers, and any errant Bankers and Auditors etc, who have been associated with any illegal foreign exchange transfers and/or have failed to discharge due accountability in rendering professional services with diligence and according to expected best practices.

Transparency International Sri Lanka remains committed to support Your Excellency in effectively responding to this appeal.

Yours Sincerely,



J.C. Weliamuna  
Executive Director

- cc. Hon. Sarath Amunugama, Deputy Minister of Finance  
Hon. Milinda Moragoda, Minister of Justice & Law Reform  
Lalith Weeratunge, Esq. Secretary to H.E. the President  
Dr. P. B. Jayasundera, Secretary to the Treasury,  
Nivard Cabraal Esq, Governor Central Bank of Sri Lanka  
Mohan Peiris Esq, Attorney General of Sri Lanka  
Mahinda Balasuriya Esq, Inspector General of Sri Lanka  
Channa de Silva Esq, Director-General, Securities Exchange Commission of Sri Lanka,  
A.S. Ratnayake Esq. Director-General, Sri Lanka Accounting & Auditing Standards Board  
Controller of Exchange  
Commissioner-General of Inland Revenue  
Registrar of Companies  
Director General, Insurance Board