



## Memorandum on the registration procedure for a bureau de change governed by Belgian law

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The present memorandum is no more than a guide for the compilation of a registration dossier and its use can in no way whatsoever anticipate the outcome of the decision of the Banking, Finance and Insurance Commission to grant or refuse a registration.

Furthermore, attention is drawn to the importance of the answers provided in the registration dossier. In this respect, one should be aware of the consequences of the declaration referred to in point 2.9 of the present memorandum.

## **Memorandum on the registration procedure for a bureau de change governed by Belgian law**

### **1. Introduction**

#### **1.1. Registration prior to commencing operations: application procedure**

Article 2 of the Royal Decree of 27 December 1994 on bureaux de change and currency trading (hereinafter referred to as the Royal Decree of 27 December 1994, a consolidated version of which is available on our website [www.cbfa.be](http://www.cbfa.be)) stipulates that bureaux de change must register with the Banking, Finance and Insurance Commission (CBFA) before commencing operations. Candidates wishing to submit a registration application for a bureau de change governed by Belgian law are required to make prior contact with the services of the CBFA. In principle, the registration procedure itself consists of two phases.

During phase one, the applicants submit a dossier to the CBFA, in which they set out their proposal, though without the proposal in any way having to be given concrete form. Concerned here, thus, is the conceptual phase of the project. The present memorandum provides a review of the items of information that the applicants are required to include in the registration dossier for the CBFA according to Article 3, paragraph 1 of the Royal Decree of 27 December 1994. Certain items of information have to be provided in one of the accompanying standard documents. Both the registration application and the registration dossier are to be filed with the CBFA in duplicate and on an electronic data support, by registered or recorded delivery letter.

Phase one is designed to enable the CBFA's services to perform an initial analysis of the dossier submitted in support of the registration application. It may be that, on the basis of the dossier submitted and any other additional information that the CBFA deems necessary for examination of the dossier, the CBFA's services will notify the applicants prior to the commencement of phase two that, in their opinion, there are difficulties standing in the way of a registration as a bureau de change.

If the dossier does not appear to present such difficulties, the CBFA's services will notify the applicants of this fact and invite them to proceed to phase two, i.e. to giving concrete form to their project, which means satisfying the legal conditions, fulfilling the formalities preceding the granting of a registration and setting up the organization. In this second phase, members of the CBFA's services may make an on-site visit to verify whether the conditions of registration have been met and an appropriate organization as referred to in Article 4, 4° of the Royal Decree of 27 December 1994 has been set up, before the CBFA decides whether to grant the registration.

Should they wish, applicants may opt not to submit their application in two phases: in other words, they need not wait until the CBFA's services have made an initial analysis of the dossier but may submit a registration application to the CBFA as soon as they deem that their dossier is complete and that they have satisfied all the conditions for obtaining a registration. In that case, however, they run the risk of going to great expense for the operational start-up of their activities without yet having received the CBFA's analysis of their dossier.

The information required to be given by the applicants during the registration application procedure is to be as detailed and comprehensive as possible. The information requested in this memorandum is not exhaustive: pursuant to Article 3, paragraph 2 of the Royal Decree of 27 December 1994, the CBFA may request additional information necessary for assessing the registration application.

Applicants should be aware of the importance of the information provided. A false declaration or the concealment of relevant details may give rise to administrative sanctions against the company or against the person or persons responsible for providing the details. Furthermore, the applicants are required to notify the CBFA's services in writing of all changes that, during the processing phase of the registration application, occur in respect of the details included in the dossier submitted in support of the application.

## **1.2. Period within which the CBFA is required to reach a decision**

In respect of the procedure for the granting of a registration, the period within which the CBFA is required to reach a decision is that laid down in Article 5 of the Royal Decree of 27 December 1994. The CBFA will give its decision on the application within four months of the submission of a complete dossier and not later than six months after receiving the registration application.

For the application of that article, the period of six months after receipt of the registration application will begin with effect from the date of receipt of a registration application, namely a formal application within the meaning of Article 3 of the Royal Decree of 27 December 1994, that is, an application accompanied by a dossier complying with the conditions laid down by the CBFA and incorporating the other elements mentioned in the said Article 3.

The four-month period mentioned in Article 5 of the Royal Decree of 27 December 1994 begins with effect from the date of submission to the CBFA of a complete dossier, i.e. one that contains all elements necessary for assessment of the dossier. Those necessary elements may be details not required by the present memorandum, but which are nevertheless useful in respect of the specific features of the proposed project.

Decisions on the registration will be communicated to the applicants within fifteen days by registered or recorded delivery letter (Article 5, 2°, of the Royal Decree of 27 December 1994). The bureau de change is required to commence its activities within twelve months after the registration is granted. If it fails to do so, the CBFA will revoke the registration (Article 12 of the Royal Decree of 27 December 1994).

## **1.3. Right of appeal against the CBFA decision**

Pursuant to Article 122, 10°, of the Law of 2 August 2002 on supervision of the financial sector and financial services and the Royal Decree of 15 May 2003 on the accelerated procedure in the case of appeal to the Council of State against certain decisions of the CBFA, applicants may file an appeal with the Council of State (Wetenschapstraat/rue de la Science 33, 1040 Brussels) against the decisions taken by the CBFA in respect of registrations pursuant to Article 5 of the Royal Decree of 27 December 1994. Applicants may likewise file

an appeal where the CBFA has not announced a decision within the periods laid down in Article 5, first paragraph of the Royal Decree of 27 December 1994. In that case, the appeal will be treated as though the application has been rejected.

The appeal can only be filed fifteen days after the applicants, by registered or recorded-delivery letter, have requested the Management Committee of the CBFA to revoke or change the disputed decision, without there having been any response to their request. However, applicants are not required to delay lodging an appeal where the CBFA has made it known that it intends to uphold its decision despite the request made by the applicants to the Management Committee of the CBFA. The period for filing an appeal will be extended by one month, counting from the date of the registered letter requesting the revocation or change of the disputed decision, provided that the letter was sent before the end of the period referred to in Article 2 of the above-mentioned Royal Decree of 15 May 2003.

Pursuant to Article 2 of the Royal Decree of 15 May 2003, the appeal is required to be filed by registered letter within fifteen days after notification of the disputed decision or, where the CBFA has not taken a decision within the period laid down by the law, within fifteen days after the end of that period. It will otherwise be considered invalid. The appeal is required to be filed in accordance with the terms and conditions laid down in the above-mentioned Decree.

## **2. Contents of the memorandum**

When compiling your registration dossier, you are required to answer in the correct order the questions set out in this point. For each question, you are required to give (i) the question number, (ii) your answer and (iii) any annexes that your answer may refer to, and to clearly separate each of your answers, for instance by an insert. For certain questions you need only complete a pre-printed form provided as an annex to the present memorandum, proceeding in the manner stated above. You are required to submit your answers to the CBFA in duplicate as well as in an electronic copy.

### **2.1 General information**

- Q1. *On the form in **Annex 1** to the present memorandum, provide the pertinent information regarding the person responsible for the registration application (this person is the one required to sign the registration dossier) and regarding the contact person charged with preparing the dossier.*
- Q2. *Provide the pertinent information regarding the applicant of the registration on the form in **Annex 2A** to the present memorandum if the applicant is a natural person, and on the form in **Annex 2B** to the present memorandum if the applicant is a company.*

### **2.2 Scope of the registration application**

- Q3. *Specify for which activitie(s) registration as a bureau de change is requested:*

<i>Cash purchase or sale of foreign currencies</i>	
<i>Money transfers</i>	

### **2.3. Identification of the shareholders and the group**

If the registration is requested by a company, pursuant to Article 139, paragraph 4 of the Law of 6 April 1995 and Article 4, 2°, of the Royal Decree of 27 December 1994, the CBFA is required to be able to verify whether the significant shareholders or partners, whether natural or legal persons, possess the necessary qualities to guarantee sound and prudent management of the bureau de change. Where the CBFA has reason to believe that this is not the case, registration will be refused. A shareholder or partner is deemed significant where that person, directly or indirectly, will have a participation – whether or not with voting rights – of at least five per cent of the capital or of the voting rights.

Considered as indirectly having five per cent of the capital or voting rights of a bureau de change that is applying for a registration are all those who, within the meaning of Article 5 of the Companies Code, exercise control alone or with others over a company that itself is a significant shareholder of the bureau de change concerned.

- Q4. *Provide for each significant shareholder or partner the information requested in **Annex 3** concerning information on significant shareholders or partners<sup>1</sup>.*
- Q5. *Where the company is already established, provide a brief description of the development of the shareholdership over the past five years.*
- Q6. *State whether agreements between shareholders exist and, if they do, provide the CBFA with a copy of them.*

If the significant shareholders or partners are part of a group<sup>2</sup>, you are requested to provide the following items of information:

- Q7. *For each of the significant shareholders or partners that are part of a group, provide a full description of that group, outlining in schematic form the structure and indicating the size of the various participating interests.*
- Q8. *For each person that belongs to a group of which a significant shareholder of the bureau de change is a part, supplement that description by providing the information requested in **Annex 4** of this memorandum.*

If the bureau de change is part of a group, you are requested to provide the following items of information:

- Q9. *Provide a full description of the group of which the bureau de change is a part by outlining in schematic form the structure of the group and indicating the size of the various participating interests.*
- Q10. *For each person that is a part of the group, supplement that description by providing the information requested in **Annex 4** of this memorandum.*
- Q11. *Where, in consequence of their legal status, certain significant shareholders or partners or certain companies belonging to the same group as the bureau de change submitting a registration application are subject to the supervision of a prudential*

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<sup>1</sup> The forms required to be completed by each significant shareholder or partner constitute appendices A, B and C of Annex 3 to the present memorandum.

<sup>2</sup> By 'group' is to be understood all companies that, alone or together, exercise control over the company concerned, as well as the companies over which the company concerned, alone or with others, exercises control within the meaning of Article 5 of the Companies Code. Where there are close links between the company and other natural or legal persons, those links are required to be made clear.

*supervisory authority, indicate the specific types of activity carried out, the type of authorization/registration obtained and the competent supervisory authority (name, address, contact person). Where the supervision in question is not exercised by a prudential authority of a Member State of the EEA, describe the nature and extent of the supervision to which those companies are subject in their own countries, indicating the legal texts applicable.*

Where it deems useful, the CBFA will contact the prudential supervisory authorities concerned.

#### **2.4. Identity of the persons in charge of the day-to-day management**

The person(s) in charge of the day-to-day management of the bureau de change are required to possess the necessary professional reputation and appropriate experience (Article 139, paragraph 2 of the Law of 6 April 1995 and Article 4, paragraph 1 of the Royal Decree of 27 December 1994). Furthermore, they are subject to certain prohibitions (Article 139, paragraph 2 of the Law of 6 April 1995 referring to the provisions of Article 19 of the Law of 22 March 1993 on the legal status and supervision of credit institutions).

Q12. *For each person in charge of the day-to-day management, the standard form (**Annex 5**) must be duly completed, signed and submitted.*

#### **2.5. Identity of the person(s) responsible for the application of the Law of 11 January 1993 on preventing use of the financial system for purposes of money-laundering and terrorist financing**

The money-laundering prevention officer plays a key role within the bureau de change, taking principal responsibility for monitoring compliance with the anti-money-laundering regulations. Please provide the following items of information:

Q13. *The personal status and the authority and competence of the officer for preventing money-laundering and terrorist financing within the organization of the bureau de change. Unless more precise information on this person has been provided in application of the instructions mentioned above, the form in **Annex 5** should also be completed and signed.*

Q14. *The technical and human resources placed at his/her disposal in order to carry out these responsibilities (particularly in terms of the number of staff).*

#### **2.6. Description of the activity**

##### **2.6.1. Overall organization**

Q15. *Provide a general description of the company's organization, addressing the following elements:*

- a) *Number of staff members (in all and per business location); do they work full-time?*
- b) *Organization chart and clear job descriptions of the staff members.*
- c) *Description of the competences (among others the signing authority). Have these competences been formally laid down?*
- d) *Social status of the employees (salaried / self-employed).*
- e) *Number of business locations and of their staff members. Address of the business locations. If mobile offices are used, this should be mentioned.*

- f) *If the company works with independent agents: overall policy, recruitment procedures, nature of the activities, supervision of administrative and commercial aspects, name of the independent agents and their precise status; if applicable, please attach a standard agent's contract.*
- g) *Any formal or informal cooperation agreements or similar relations with third parties, whether or not possessing the status of a bureau de change.*
- h) *Any other activities of the bureau de change. Please give a detailed description (nature, importance, etc.).*

### **2.6.2. Exchange activity**

*Q16. Give a detailed description of the nature of the expected exchange activity for each business location:*

- *tourist centre ;*
- *for Belgian or foreign customers (expressed in %) ;*
- *for private individuals, professional customers or institutional customers (expressed in %) ;*
- *in cash, by cheque, with credit cards or debit cards (expressed in %).*

*Q17. Expected monthly turnover per business location, in total and per currency, for both purchases and sales, stating the anticipated number of transactions. These data should be filled in the declaration form provided as **Annex 6**, point 1.*

*Q18. Who are the company's counterparties as regards stock management (sale of surplus currencies, purchase of the necessary currencies)? If there are different counterparties, please mention their respective relevance.*

### **2.6.3. Money transfers<sup>3</sup>**

*Q19. Give a thorough description of the way in which money transfers are organized.*

*Q20. What is the period of time within which the funds accepted in Belgium have to be paid abroad?*

*Q21. Which are the counterparties that will make the payments abroad (sending money)? Did the company conclude cooperation agreements with these counterparties?*

*Q22. List the counterparties through which funds are being paid in Belgium (reception of money)? Did the company conclude cooperation agreements with these counterparties?*

*Q23. What measures will be taken if the funds that have been sent are not being paid or cannot be paid?*

*Q24. Have limits been set on receiving/sending money (e.g. per month / per customer / per beneficiary). If so, what are these limits?*

*Q25. Countries of destination (indicating in terms of percentage the expected volume per country).*

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<sup>3</sup> Companies wishing to engage in this activity have to meet a number of additional conditions. See in this respect Article 139, paragraph 8 (new) of the Law of 6 April 1995 on the legal status and supervision of investment firms, on intermediaries and investment advisers, available on our website: [www.cbfa.be](http://www.cbfa.be).

- Q26. *State the countries from which money will be received (indicating in terms of percentage the volume per country).*
- Q27. *Can/will a money transfer in foreign currencies be accepted? If so, which currencies will be accepted?*
- Q28. *Expected monthly turnover per business site, in total and per currency, for both sending and receiving money, stating the anticipated number of transactions. These data should be entered in the declaration form provided in **Annex 6**, point 2.*
- Q29. *The amount of the security to be deposited at the “Caisse des Dépôts et Consignations / Deposito- en Consignatiekas” must equal at least ten times the maximum amount which the bureau de change plans to transfer for a customer, either in one transaction or in several transactions that appear related, with a minimum of € 25,000 and a maximum of € 100,000. Please mention the amount of the security as well as the calculation in the above-mentioned way and the date on which you wish to consign this security.*

## **2.7. Description of the administrative and accounting organization of the exchange activity and/or transfer activity**

### **2.7.1. Description of the accounting organization and the information technology**

- Q30. *Does the company have an information technology (IT) structure at its disposal? Yes - No*
- If so:*
- a) *Which system?*
  - b) *Is there an access security for the system or for certain applications?*
  - c) *Is there a security system for the data and/or the applications?*
- Q31. *Which accounting system is being used?*
- a) *Full accounting;*
  - b) *Simplified accounting.*
- Q32. *Are the transactions immediately registered upon execution?*
- Q33. *Does the company check on a daily basis whether the cash in hand corresponds to the accounting data?*
- Q34. *If money transfers are being made:*
- a) *give a full description of the administrative/accounting treatment of a transfer ;*
  - b) *is a system freezing provided (cf. Q24: limits) ;*
  - c) *how are input data managed (database) ;*
  - d) *how will the confirmations of payments abroad be managed ?*
- Q35. *In what form will the monthly reporting to the Banking, Finance and Insurance Commission (CBFA) be submitted (e-mail or disk)?*

**2.7.2. Model of the transaction statement for an exchange and/or transfer transaction and description of the system for numbering, price determination and commissions**

- Q36. *Provide a sample of the transaction statement the bureau de change will use (transaction statement for exchange and/or transfer transactions).*
- Q37. *Give a description of the numbering system of the transaction statements. Is there a separate numbering for each business location?*
- Q38. *Is the sequence of the numbers going to be checked? If so, by whom and according to what procedures?*
- Q39. *Describe the price determination for the customers (on what basis is the price determined? what are the margins?) and mention any costs and commissions applied.*

**2.7.3. Preventive measures regarding the money-laundering legislation and internal control procedures on this matter**

When answering the following questions, please take into account the legislation in force on this subject, namely, the *Law of 11 January 1993 on preventing use of the financial system for purposes of money-laundering and terrorist financing* (hereinafter called the anti-money-laundering legislation), and the *Regulation of 27 July 2004 of the Banking, Finance and Insurance Commission on preventing money-laundering and the financing of terrorism*, as well as Circular PPB 2004/8 of 22 November 2004 of the Banking, Finance and Insurance Commission on the obligations of customer due diligence and on preventing the use of the financial system for money-laundering and the financing of terrorism (consolidated version).

- Q40. *What measures have been taken to identify the customers and the beneficial owners as required by the anti-money-laundering legislation? If applicable, describe the “intermediation of third parties” aspect in the identification process.*
- Q41. *What measures have been taken regarding the retaining of data in order to comply with Article 7 of the anti-money-laundering legislation?*
- Q42. *Describe the nature and the contents of the training session(s) you or your collaborators received on the prevention of money-laundering. Who received this (these) training session(s) and when? What initiatives will be taken or what policy will be pursued for the sensitization of staff?*
- Q43. *Please provide a copy of the procedure concerning the customer acceptance policy and describe in detail this policy.*
- Q44. *Describe how the obligation of due diligence (first-line monitoring) regarding business relationships and transactions will be met. Within this framework, describe the procedures and criteria for detecting suspicious transactions within the meaning of the anti-money-laundering legislation.*
- Q45. *Describe the procedure for drawing up the report referred to in Article 8 of the money-laundering legislation and for submitting it to the officer responsible.*
- Q46. *Describe the measures taken to comply with the regulatory framework, more specifically with regard to the system for second-line monitoring of the transactions.*

Q47. *Future initiatives?*

## **2.8. Financial statements**

Q48. *For an existing company: The registration dossier shall contain the latest annual financial statements that were filed as well as the notes to these statements and a “financial plan” for the first three years following the start-up of the exchange and/or money transfer activities, establishing their viability. If the last set of annual financial statements is more than three months old, or if no annual financial statements have been drawn up, the registration dossier shall contain a financial statement no older than three months, giving a detailed report of the assets and liabilities, the results for the current financial year as well as the rights and commitments. Bureaux de change wishing to carry out money transfer activities are reminded that the company shall possess at any time a fully paid-up capital and own funds of at least € 200,000.*

Q49. *For a newly established company: Please provide the projected balance sheet and income statement (financial plan) for the first 3 years, establishing among others the financial viability of the company.*

## **2.9. Declaration regarding the completeness and accuracy of the data**

Q50. *The applicant shall submit the declaration referred to in **Annex 7** duly signed and dated.*

*Annex: List of Annexes of the Memorandum on the registration procedure for a bureau de change governed by Belgian law*