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**Federal Act  
on the Restitution of Assets illicitly obtained  
by Politically Exposed Persons  
Restitution of Illicit Assets Act (RIAA)**

of 1 October 2010 (Status as of 1 February 2011)

**Please note:** this translation does not yet include the amendments of 1.7.2016

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*The Federal Assembly of the Swiss Confederation,*

based on Article 54 paragraph 1 of the Federal Constitution<sup>1</sup>, and  
having considered the Federal Council Dispatch of 28 April 2010<sup>2</sup>,  
*decrees:*

**Section 1: Subject Matter**

**Art. 1**

This Act governs the freezing, forfeiture and restitution of assets of politically exposed persons or their close associates in cases where a request for mutual legal assistance in criminal matters cannot produce an outcome owing to the failure of state structures in the requesting state in which the politically exposed person exercises or exercised office (the country of origin).

**Section 2: Freezing of Assets**

**Art. 2** Requirements

The Federal Council may order the freezing of assets in Switzerland with a view to the instigation of forfeiture proceedings under this Act, provided the following conditions are fulfilled:

- a. The assets have been secured provisionally in the context of a process of mutual legal assistance in criminal matters instigated at the request of the country of origin.
- b. Powers of disposal over the assets rest with:

AS 2011 275

<sup>1</sup> SR 101

<sup>2</sup> Federal Gazette 2010...

1. individuals who exercise or have exercised a high public office abroad (politically exposed persons). This category includes specifically heads of state or government, high-ranking politicians, high-ranking members of the administration, judiciary, armed forces or national political parties, and senior executives of state-owned corporations of national importance, or
  2. natural or legal persons who are closely associated with politically exposed persons for family, personal or business reasons (close associates).
- c. The country of origin is unable to satisfy the requirements of mutual legal assistance proceedings owing to the total or substantial collapse, or the unavailability, of its national judicial system (failure of state structures).
  - d. The safeguarding of Swiss interests demands that the assets be frozen.

**Art. 3** Duration

<sup>1</sup> Assets remain frozen until a legally binding decision on their forfeiture is made.

<sup>2</sup> If no forfeiture proceedings are instigated within ten years of the freezing order taking effect, the freeze shall cease to apply.

**Art. 4** Amicable settlement

<sup>1</sup> The Federal Council may instruct the Federal Department of Foreign Affairs (FDFA), while the asset freeze is in force, to seek an amicable settlement that permits the full or partial restitution of the frozen assets. Articles 8–10 apply by analogy to such restitution.

<sup>2</sup> The amicable settlement must be approved by the Federal Council.

<sup>3</sup> If the Federal Council approves the amicable settlement, the asset freeze shall cease to apply.

**Section 3: Forfeiture**

**Art. 5** Procedure

<sup>1</sup> The Federal Council may instruct the Federal Department of Finance (FDF) to take legal action before the Federal Administrative Court to enable frozen assets to be forfeited.

<sup>2</sup> The Federal Administrative Court shall decide on the forfeiture of assets

- a. in respect of which the power of disposal is held by a politically exposed person or his or her close associates;
- b. which have been obtained by illicit means; and
- c. which have been frozen by the Federal Council pursuant to this Act.

<sup>3</sup> No statute of limitations in respect of criminal prosecution or penalties may be invoked.

<sup>4</sup> If mutual legal assistance proceedings in criminal matters resume, forfeiture proceedings shall be suspended until a legally binding decision has been issued in respect of the mutual legal assistance proceedings.

#### **Art. 6** Presumption of illicit origin

<sup>1</sup> The presumption that assets are of illicit origin applies where

- a. the wealth of the person who holds powers of disposal over the assets has been subject to an extraordinary increase that is connected with the exercise of a public office by the politically exposed person; and
- b. the level of corruption in the country of origin or surrounding the politically exposed person in question during his or her term of office was acknowledged as high.

<sup>2</sup> The presumption ceases to apply if it can be demonstrated that in all probability the assets were acquired by lawful means.

#### **Art. 7** Third-party rights

The following categories of asset may not be seized:

- a. those over which a Swiss authority can lay claim;
- b. those to which a person who is not a close associate of the politically exposed person has acquired rights in rem in good faith:
  1. in Switzerland, or
  2. abroad, if they are the object of a judicial decision which can be recognised in Switzerland.

### **Section 4: Restitution**

#### **Art. 8** Principle

The restitution of forfeited assets has the following objectives:

- a. to improve living conditions for the people in the country of origin;
- b. to reinforce the rule of law in the country of origin and to prevent serious crimes from being committed with impunity.

#### **Art. 9** Procedure

<sup>1</sup> Seized assets shall be returned in the form of funding for programmes of public interest.

<sup>2</sup> The details of restitution may be governed by an agreement between Switzerland and the country of origin.

<sup>3</sup> Such an agreement may govern, in particular

- a. the nature of the programmes of public interest that are to be financed by the assets that have been returned;
- b. the way in which the returned assets are to be used;
- c. the parties involved in restitution;
- d. checks and monitoring with regard to how the returned assets are being used.

<sup>4</sup> The Federal Council is responsible for concluding such an agreement.

<sup>5</sup> If no agreement can be reached with the country of origin, the Federal Council itself shall determine the process of restitution. In particular, it may return the forfeited assets via international or national institutions and order supervision by the FDFA.

#### **Art. 10** Procedural costs

<sup>1</sup> A flat-rate charge of no more than 2.5 percent of the seized assets may be debited for the account of the Confederation or the cantons to cover the costs of freezing and returning the assets.

<sup>2</sup> The Federal Council shall determine this flat-rate charge on a case-by-case basis.

### **Section 5: Rights of Appeal and Cooperation between Authorities**

#### **Art. 11** Appeal

<sup>1</sup> Orders issued by the Federal Council to freeze assets may be challenged by an appeal to the Federal Administrative Court.

<sup>2</sup> The appeal does not have a suspensive effect. Article 55 paragraph 2 of the Federal Act of 20 December 1968 on Administrative Procedure<sup>3</sup> does not apply.

<sup>3</sup> No objection may be raised on the grounds that the order is inappropriate.

<sup>4</sup> Proceedings and rights of appeal are otherwise governed by the general provisions on the administration of justice at federal level.

#### **Art. 12** Cooperation between authorities

<sup>1</sup> The Federal Office of Justice shall notify the FDFA when a request for mutual legal assistance in criminal matters concerning assets frozen in Switzerland of politically exposed persons or their close associates has proven unsuccessful.

<sup>2</sup> At the request of the FDFA or the FDF, federal and cantonal authorities must provide all such information as is required to enforce this Act.

<sup>3</sup> SR 172.021

## **Section 6: Final Provisions**

### **Art. 13** Amendments to current law

Amendments to current law are set out in the Appendix.

### **Art. 14** Transitional provisions

<sup>1</sup> Assets already frozen on the commencement of this Act on the basis of a Federal Council order issued pursuant to Article 184 paragraph 3 of the Federal Constitution because a request for mutual legal assistance in criminal matters has proven unsuccessful shall remain frozen until a decision on their forfeiture takes legally binding effect in accordance with this Act.

<sup>2</sup> The asset freeze shall cease to apply if forfeiture proceedings have not been instigated within one year of the commencement of this Act.

### **Art. 15** Referendum and commencement

<sup>1</sup> This Act is subject to an optional referendum.

<sup>2</sup> The Federal Council shall determine the commencement date.

Commencement date: 1 February 2011<sup>4</sup>

<sup>4</sup> Federal Council Decree of 12 Jan. 2011

*Annex*  
(Art. 13)

### **Amendments to current law**

The following federal acts are amended as described below:

...<sup>5</sup>

<sup>5</sup> The amendments may be consulted under AS **2011 275**