

EXTRAORDINARY



# REPUBLIC OF FIJI GOVERNMENT GAZETTE

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## GOVERNMENT OF FIJI

EXCHANGE CONTROL (AMENDMENT) DECREE 2012  
(DECREE NO. 35 OF 2012)

IN exercise of the powers vested in me as the President of the Republic of Fiji and the Commander in Chief of the Republic of Fiji Military Forces by virtue of the Executive Authority of Fiji Decree 2009, I hereby make the following Decree—

A DECREE TO AMEND THE EXCHANGE CONTROL ACT (CAP. 211) AND TO PROVIDE FOR TRANSFER PRICING ADJUSTMENTS UNDER THE INCOME TAX (TRANSFER PRICING) REGULATIONS 2012

*Short title and commencement*

- 1.—(1) This Decree may be cited as the Exchange Control (Amendment) Decree 2012.
- (2) This Decree shall be deemed to have come into force on 1st January, 2012.
- (3) The Exchange Control Act (Cap. 211) is referred to as the "Principal Act".

*New Part inserted*

2. The Principal Act is amended by inserting the following new Part after section 25—

"PART VA — TRANSFER PRICING ADJUSTMENTS

*Definitions*

- 25A. For the purpose of this part—

"arm's length principle" in relation to a transaction means the results that would have been realised in a transaction between independent persons dealing under the same or similar conditions;

"income or expenditures" has the same meaning given in the Income Tax (Transfer Pricing) Regulations 2012;

"person" includes resident and non-resident persons;

"transaction" means a supply or acquisition of property, services, money, intangibles or any other asset and includes an arrangement, understanding, agreement or mutual practice whether or not legally enforceable or intended to be legally enforceable and a dealing between a branch of a person and another part of the person.

*Adjustments*

- 25B. Where by virtue of the provisions of the Income Tax (Transfer Pricing) Regulations 2012, there is an adjustment or adjustments to a person's income or expenditures, in respect of any transaction or transactions to comply with the arm's length principle, a corresponding adjustment shall be required to comply with this Act. For the avoidance of doubt, reference to a person shall include a body corporate."

GIVEN under my hand this 26th day of April 2012.

EPELI NAILATIKAU  
President of the Republic of Fiji