



Decree 83 / 2010 of 31 December  
Regulation of Law 11/2009 of the 11th of March –  
The Foreign Exchange Law

Free Translation

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## **COUNCIL OF MINISTERS**

### **Decree 83 / 2010**

**of 31 December**

As it has become necessary to pass regulations on Law 11/2009 of the 11th of March, which establishes the legal foreign exchange framework for Mozambique, the Council of Ministers, using the authority conferred on it by Article 29 of the same Law, decrees:

Article 1. The Regulations on Law 11/2009 of the 11th of March - the Foreign Exchange Law, which form an integral part of this Decree, are approved.

Article 2. All regulatory norms which contradict this Decree are revoked.

Article 3. This Decree enters into force 90 days after the date of its publication.

Approved by the Council of Ministers, on 14 December 2010.

For publication.

The Prime Minister, Aires Bonifácio Baptista Ali.

## **Regulations on the Foreign Exchange Law**

### **CHAPTER I**

#### **General Provisions**

### **SECTION I**

#### **Object, Scope and Definitions**

##### **Article 1**

**(Object)**

These Regulations set out the rules and procedures to be followed when performing acts, negotiations, transactions and operations of a forex nature, in terms of Law 11/2009 of the 11th of March - the Foreign Exchange Law.

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## Article 2

### (Scope of subjective application)

These Regulations are applicable to all those involved in acts, negotiations, transactions and operations performed in terms of the Foreign Exchange Law, as well as to those entities responsible for ensuring compliance with applicable norms, namely:

- a) Individual or collective persons who are the holders of rights and obligations in the context of the performance of the said acts, negotiations, transactions and operations;
- b) Entities authorised to perform forex operations;
- c) Regulatory and monitoring entities, and justice administration entities, in the context of the authority conferred on them by Law.

## Article 3

### (Definitions)

For the purposes of these Regulations, the following terms shall be deemed to have the following meanings:

- a) **Arbitrage of foreign exchange rates:** the setting of the amount, in national currency, which must be paid or received when acquiring or alienating foreign currency;
- b) **Foreign Exchange Authority:** the Bank of Mozambique, in terms of the respective Organic Law of the Bank of Mozambique;
- c) **Bank:** a kind of credit institution, defined as such by the Law, which regulates the constitution and activities of credit and financial institutions;
- d) **Goods:** all those things which may be the object of international trade, whether tangible or not;
- e) **Forex authorization bulletin:** the document, in a physical or electronic format, in terms of which the Bank of Mozambique grants the applicant permission to perform a forex operation;
- f) **Forex registration bulletin:** the document, in a physical or electronic format, in terms of which the Bank of Mozambique formalises and certifies the registration of a specific forex operation;

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- g) **Certificates of participation in collective investment bodies:** shares and other participation instruments, bonds, and other securities and instruments normally bought and sold on financial markets;
- h) **Partial forex trading:** the conducting, on a professional basis, of the purchase and sale of foreign currency, strictly in connection with a main, non-financial activity, on the terms authorised by the Bank of Mozambique;
- i) **Consignment:** the act, by a consignor, of delivering goods or merchandise to a consignee;
- j) **Consignor:** individual or collective person, or agent of such person, who supplies goods or merchandise;
- k) **Consignee:** individual or collective person, indicated on a shipping document, who has the right to claim goods or merchandise from a shipper at their destination - it being presumed, for legal purposes, that he is the owner of the cargo;
- l) **Documentary credit:** an irrevocable commitment, assumed by a bank (the Issuing Bank) on request, and on the instructions of its importer client (the Transferor), to effect payment to an Exporter (Beneficiary) by way of an Intermediary Bank, against presentation of stipulated documentation, provided that all of the terms and conditions thereof have been complied with;
- m) **Identification document:** a document acceptable in terms of applicable legislation for the identification of individual and collective persons who are party to operations and transactions performed through credit and financial institutions;
- n) **Sole Customs Document:** a customs declaration form, confirming the entry or exit of goods or merchandise into the national customs territory;
- o) **Loans of a personal nature:** loan operations, characterised by the fact that the lender does not provide credit on a professional basis, whether or not he intends to make a profit;
- p) **Loans and financial credit:** loan transactions involving financial institutions involved therein in their professional capacity, for profit;
- q) **Export:** the departure of goods or merchandise, and services, from the national customs territory;

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- r) **Commercial Invoice:** a document issued by an exporter, importer or supplier which formalises a commercial transaction;
- s) **Pro-forma invoice:** a document issued by an exporter, of a preliminary nature, on the request of the importer, so as to allow for the commencement of the import procedure, containing the information required for a definitive invoice, but not generating a payment obligation, on the part of the buyer;
- t) **Excess:** quota-share set out in an insurance policy to be paid directly by the insured in the case of damage, in addition to the amount of compensation to be paid by the insurer, in accordance with agreed limits.
- u) **Charter:** contract in which one of the parties, who is the owner or operator of a ship, aircraft, or rail or road transport vehicle - the charterer - is obliged to cede, to the other - the charteree or carrier - the use of the entire ship, aircraft, rail or road transport vehicle, or part thereof, for the purposes of maritime, air, rail or road navigation, against pecuniary remuneration, called "freight";
- v) **Bank Guarantee:** a document issued by a bank, on the request of its client, and in favor of another, by virtue of which the bank agrees to compensate the beneficiary if its client does not honour the obligations assumed by it, in respect of the other;
- w) **Identification (of subjects, those involved in transactions, or parties):** name, address, and other relevant information contained in the identification document;
- x) **Import:** the entry of goods or merchandise, and of services, into the national customs territory;
- y) **Consigned import:** an operation in which a resident entity, called the "consignee", receives from abroad, and from another non-resident entity, called the "consignor", goods or merchandise, for sale by him for his own account and in his own name, within a certain time period, or, if they are not sold, he returns them, without receiving any advantage;
- z) **Physical import and export of monetary amounts:** the entry into, or exit from, the national territory, of foreign or national notes or metallic coins in circulation, foreign payment methods, bills of exchange, promissory notes and invoice statements, shares, bonds, coupons, or public debt instruments, whether national or foreign, effected by entities authorised to trade in forex.

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- aa) **Portfolio investment:** investment in shares or any other forms of capital participation, as well as in bonds and other securities and financial instruments;
- bb) **Foreign direct investment:** any form of foreign capital contribution which can be valued in monetary terms, which constitutes capital or own funds, or for the account and at the risk of the foreign investor, originating from offshore, and intended for inclusion in an investment for the implementation of a project involving economic activity, or for the acquisition of a long term interest in companies which operate outside of the economy of the investor, in a company registered and operating in the country;
- cc) **Real estate investment:** transactions involving the acquisition, alienation or lease of immovable goods, concluded between residents and non-residents, either within the country, or abroad;
- dd) **Liquidation of a transaction:** payment, or other manner of extinguishing an obligation;
- ee) **Merchandise:** goods which are the object of a commercial transaction;
- ff) **Foreign currency:** notes and metallic coins which are legal tender in their countries of issue, and any other foreign payment methods, expressed in a currency, or in units of account, utilised in international dues or payments;
- gg) **Documented foreign currency:** monetary amount expressed in foreign currency, but without physical form as a bank note or coin;
- hh) **Physical foreign currency:** foreign notes and metallic coins in circulation;
- ii) **Forex operation:** any act, business deal or transaction undertaken between a resident and a non-resident, and which results, or may result, in payments to or receipts from offshore, or which is simply qualified as a forex operation by law;
- jj) **Stock exchange operations:** those performed through a national or foreign stock exchange, or related to them;
- kk) **Capital operations:** those referred to in the Foreign Exchange Law;
- ll) **Merchandise operations:** acts or transactions effected between residents and non-residents, which involve the transfer of ownership rights over movable goods intended for trade;

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- mm) **Conductor of partial forex trading:** an entity authorised by the Bank of Mozambique to perform foreign currency purchase and sale operations on a professional basis, strictly in relation to a main, non-financial activity.
- nn) **Direct Payment:** a payment method in which an importer receives documents relating to a transaction directly from an exporter, attends to the offloading of merchandise at customs, and thereafter, attends to the remittance of the respective payment to the exporter, through its bank;
- oo) **Advance payment:** partial or total payment, made by a resident to a non-resident, and vice versa, for the import or export of goods or services, prior to the effective delivery or complete performance thereof;
- pp) **Payment in arrears:** partial or total payment, made by a resident to a non-resident and vice versa, for the import or export of goods or services, after the effective delivery or complete performance thereof;
- qq) **Income:** positive return on an investment made by an individual or collective person;
- rr) **Forex registration:** the collection and maintenance of essential information, relating to a forex operation, including its electronic or manual processing, as well as the file of documents substantiating it;
- ss) **Documentary remittance or collection:** payment method used in operations involving the import and export of goods and merchandise, which consists of the remittance of collection documents, namely, the commercial invoice, bill of lading, bank draft or other documents indicated in accordance with international commercial norms and practices, to the importer's bank, for delivery against acceptance of the draft recognising the debt (collection on credit) or immediate payment (collection on display).
- tt) **Remittance of income into the country:** the sending to Mozambique, through the banking system, of income generated abroad by resident entities;
- uu) **Remittances of Mozambican emigrants:** all operations involving the receipt of funds from outside of the country, on the order of Mozambican emigrants;
- vv) **Re-insurance:** an agreement in terms of which an insurer, or re-insurer, insures, in his turn, part of the risks which he assumes;
- ww) **Services:** the performance of an economic activity by a non-resident for a resident, or vice versa, in any of the following areas of economic activity: transport, insurance, information technology, information, commerce-related

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services, royalties and licences, governance and financing services (excluding capital income, such as interest);

- xx) **Spread:** buy rate / sell rate differential, for foreign notes and coins;
- yy) **Current transactions:** any payments or receipts in foreign currency, which are not made for the purpose of capital transfers, namely, payments or receipts in connection with external commerce, unilateral transfers without counterperformance, or others which are not subject to the prior authorization of the Bank of Mozambique in terms of the Law and these Regulations;
- zz) **Transport via pipelines:** transport effected by way of oil pipelines, gas pipelines or cables for the conducting of electrical energy, *inter alia*.

## SECTION II

### General Principles and Duties

#### SUBSECTION I

#### General Principles

##### Article 4

(Liberalization of current transactions)

1. Current transactions do not require the authorization of the Bank of Mozambique, without detracting from the obligation to register such transactions, in terms of the provisions of Article 6 of these Regulations.
2. The Bank of Mozambique shall create a classification table of forex operations, indicating the respective computerised codes and definitions of classifying categories and sub-categories, as well as a detailed classification of current transactions.

##### Article 5

(Requirement of prior authorization)

1. Capital operations, defined as such in terms of Article 6, paragraph 5 of the Foreign Exchange Law, require the prior authorization of the Bank of Mozambique.
2. The performance of acts, negotiations, transactions and operations which, despite not being capital operations, are subject to registration in terms of Article 6,



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paragraph 3 of the Foreign Exchange Law, shall also require the prior authorization of the Bank of Mozambique.

## **Article 6**

(Obligatory forex registration)

1. All forex operations shall be subject to registration, on the following terms:
  - a) with the Bank of Mozambique, in the case of operations authorised by it;
  - b) with credit and financial institutions, in the case of operations performed by them, which do not require the authorisation of the Bank of Mozambique;
2. Forex registration shall include, cumulatively:
  - a) the recording of all information pertaining to the forex operation, namely, the identification of subjects, the nature of the operation, and the amount, purpose, and lawfulness thereof;
  - b) the electronic or manual processing of such information - in the latter case, when the former is not possible;
  - c) a file of copies of substantiating documents; and
  - d) the issuing of the competent Forex Registration Bulletin, in the form of a physical or electronic document.
3. Forex registration shall be done according to the procedures determined by the Bank of Mozambique.

## **Article 7**

(Obligatory declaration of forex assets)

1. Resident entities are obliged to declare all amounts and rights acquired, generated or held abroad, to the Bank of Mozambique.
2. The declaration referred to in the previous paragraph shall be made on a form provided by the Bank of Mozambique, in one of the following ways:
  - a) electronic format, by way of a log-in indicated by the Bank of Mozambique;
  - b) physical delivery to the agencies, branches or other representative offices of the Bank of Mozambique;
  - c) by post, with notice of receipt, addressed to the Bank of Mozambique;

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- d) other ways, indicated by the Bank of Mozambique for this purpose, in cases in which other alternatives are not practical.
3. The information provided to the entities referred to in the previous paragraph shall be updated annually, or whenever it changes within time periods to be determined by the Bank of Mozambique.
4. The information collected shall serve as the basis for the determination of the international investment situation in the country.

## Article 8

### (Obligatory remittance of forex assets)

1. Resident entities shall be obliged to remit income from the export of goods, services and investment abroad, into the country.
2. The remittance of income referred to in the previous paragraph shall be made within a period of ninety days, counting from:
  - a) offloading, in the case of the export of goods;
  - b) the receipt by residents of the purchase price or of fees arising out of services performed by them in terms of an agreement; or
  - c) the receipt of income, in the case of foreign investment.
3. Income must be remitted by way of bank transfer, and shall be reflected in national currency in the account of the beneficiary, at the rate of exchange used by the bank which brokered the export operation, on the date of effective remittance.
4. While complying with the provisions of paragraphs 1 and 5, both of this Article, part of the said income in foreign currency may be:
  - a) retained, up to a limit of fifty percent, in the account of the exporter or investor, domiciled in the country;
  - b) applied to the repayment of loans in foreign currency, contracted through the national banking system.
5. The Bank of Mozambique may also, on a case by case basis, exempt the resident entity in question from the obligations contained in paragraph 1 of this Article, authorising the offshore retention of part of the income referred to in this Article, in the following cases:

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- a) The repayment of debts, and compliance with other obligations abroad, including tax obligations, against proof of amounts paid;
  - b) Payments of an urgent nature to companies conducting international transport and related activities, in particular, agency, up until the limit established from time to time by the Bank of Mozambique;
  - c) Payments related to the maintenance of accounts, and compliance with immediate offshore obligations to tourism companies;
  - d) Other cases, duly authorised by the Bank of Mozambique.
6. Amounts in excess of the payments indicated in the previous paragraph shall be remitted into the country within a period of ninety days, counting from the date of compliance with the respective obligations.
7. The exemption referred to in paragraph 5 of this Article is conditional upon the effective remittance, to the Bank of Mozambique, of a monthly bank statement, by the bank with which the entity in question holds an account offshore, and for this purpose, proof of the request for permanent remittance, as reflected on the statement of the account with the offshore bank, shall be attached.
8. The repatriation of income or investment returns, and their respective allocation and retention, shall comply with the following order of priority:
- a) allocation as set out in paragraph 5;
  - b) allocation as set out in subparagraph b) of paragraph 4;
  - c) allocation of the remainder, in foreign currency, in equal parts, as set out in paragraph 3 and in subparagraph a) of paragraph 4.

## **SUBSECTION II**

### **General duties**

#### **Article 9**

(Duty of verification)

1. Entities authorised to trade in forex must, prior to the conducting of the operation in which they are involved, verify the nature and economic basis thereof, and the identity and lawfulness of the parties, as well as the legality of the forex operation

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requested, and for this purpose, request such supporting documentation as is necessary in terms of these Regulations.

2. Without detracting from the provisions of paragraph 1 of this Article, entities authorised to trade in forex shall be subject to the duties of identification and investigation set out in legislation on the prevention and combatting of money laundering.
3. For the purposes of the provisions of paragraph 1 of this Article, entities authorised to trade in forex shall organize the documentation presented according to criteria, determine the sequential number of the operation, and indicate the date to which it pertains.
4. The information referred to in the previous paragraph shall be always available, and permanently up to date.
5. Entities authorised to trade in forex shall refrain from performing an operation in cases in which the necessary information is not provided, or in which no documentation substantiating the operation requested by the client is presented.

#### Article 10

##### (Duty of information)

Entities authorised to trade in forex must register forex operations, and send information to the Bank of Mozambique regarding such operations, in accordance with what is set out in paragraph 3 of Article 4 of the Foreign Exchange Law, and with the norms of these Regulations.

#### Article 11

##### (Duty to retain documents)

Entities authorised to trade in forex must retain the information necessary for the verification of the respective nature and reality (of each transaction), on the terms set out in Commercial Law, Tax Law and other applicable legislation.

#### Article 12

##### (Duty to use the banking system exclusively)

Forex operations which involve payments to or receipts from abroad, shall be performed exclusively through those banks authorised to operate in the country.

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## **CHAPTER II**

### **Forex Trading**

#### **SECTION I**

#### **Licensing and Registration Requirements and Procedures**

##### **Subsection I**

##### **Trading of forex by banks and exchange bureaux**

###### Article 13

(Terms and conditions for forex trading by banks and exchange bureaux)

1. Without detracting from specific legislation regarding the constitution and functioning of credit and financial institutions, the requirements for forex trading by banks and exchange bureaux shall comply with the terms and conditions set out in these regulations.
2. Forex trading by exchange bureaux shall be limited to the purchase and sale of foreign currency to individual persons, and such sales shall not exceed an amount of USD 5,000.00 (five thousand United States Dollars) or its equivalent, per transaction, and be intended exclusively for travel abroad.
3. Forex operations which are not covered by the previous paragraph, may only be effected through banks.

##### **Subsection II**

##### **Trading of forex by other entities**

###### Article 14

(Requirements for partial forex trading)

1. Partial forex trading shall be undertaken in terms of the Foreign Exchange Law, and these Regulations.
2. The following entities may undertake partial forex trading, following prior authorization by the Bank of Mozambique:
  - a) travel or tourism agencies;
  - b) hotels and similar establishments;

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- c) entities subject to special treatment, in terms of what is set out in Article 28 of the Foreign Exchange Law;
  - d) other entities or institutions which come to be defined by law.
3. Entities authorised in terms of the previous paragraph of this Article may only undertake partial forex trading when it is related to the services which they provide, and on the terms set out in the respective authorization.

### **Article 15**

(Licencing for partial forex trading)

For the purposes of the licencing of the entities referred to in Article 14, paragraph 2 of these Regulations, interested parties must submit their applications for the granting of a licence to the Bank of Mozambique, accompanied by an authenticated copy of the licence (*alvará*) for the principal commercial activity which they perform, or an equivalent document.

### **Article 16**

(Registration of, and information regarding, operations performed)

Entities which undertake partial forex trading shall register forex operations which they perform, and submit information to the Bank of Mozambique in a compiled format, in terms of these Regulations.

## **CHAPTER III**

### **Current transactions**

#### **SECTION I**

#### **General Provisions**

##### **Article 17**

(General requirements)

Without detracting from forex registration obligations, and the obligation to verify the legality of such operations, the performance of current transactions, defined as such in terms of the Foreign Exchange Law and these Regulations, shall not require the authorization of the Bank of Mozambique.

### **Article 18**

(Documents and procedures)

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1. For the purposes of the verification of the legality, and the registration, of current transactions, the parties involved shall present documentation proving their identification, and the lawfulness and nature of the operation effected, in terms of these Regulations, failing which they may be prohibited from performing the transaction.
2. The payment of current transactions shall be conditional upon the presentation, by involved parties, of documentation proving that the corresponding services were effectively performed, or the goods provided, or that they are obliged to make payment in advance, in which case they shall present documentation proving the performance of the said services, or the provision of goods, within a period of 90 days, counting from the date of the effecting thereof.

#### Article 19

##### (Control procedures)

1. Foreign exchange operators shall, at the time of undertaking an operation, verify the existence of all information or proof necessary for the complete legal and economic characterisation of the operation, the identification of the persons involved, and the determination of the value of the operation and the form in which the obligation is complied with.
2. Without detracting from the duty of verification set out in these Regulations, and in terms of legislation on the prevention and combatting of money laundering, any acts leading to a suspicion of the act of money laundering shall be taken into account at the time when current transactions are taken, in particular, confirmation of the lawfulness of the possession of funds presented, and of the end beneficiaries of the transactions performed.

## **SECTION II**

### **Payments by residents**

#### **SUBSECTION I**

#### **Payments for the import of goods**

#### Article 20

##### (General requirements)

1. Any offshore payments relating to the import of goods or merchandise shall be made through the banks.

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2. The making of any payment abroad, for the purposes of the import of goods, shall depend upon the presentation by the importer of documentation evidencing:
  - a) the entry of the merchandise into the national customs territory; or
  - b) the shipment of merchandise to the national customs territory, in those cases in which payment is made by documentary credit.
3. Exceptionally, payment may be sent offshore for the import of goods without the presentation of documents of entry or loading of merchandise, in the following cases:
  - a) advance payments, by way of documentary credit, in which the commencement of the import is conditional upon the advance payment of a percentage of the price;
  - b) direct early payments, when there is a solid relationship of trust between the bank and the importer, on condition that the importer promises the bank, in writing, to deliver documents evidencing the entry of the merchandise into the national customs territory.
4. For the purposes of the provisions of sub-paragraph b) of the previous paragraph, a solid relationship of trust shall be deemed to exist between the bank and the importer when at least the following conditions are met:
  - a) it is not the first transaction between the parties involved;
  - b) the importer is not in a situation of non-compliance with deadlines, which still needs to be rectified.
5. The bank shall be responsible for ensuring compliance with the deadline for the delivery after the fact of evidentiary documentation;
6. Banks shall create and maintain a register, containing relevant information regarding the degree of compliance with deadlines for the remittance of documentation substantiating advance payments, which shall be made available to other banks on the terms permitted by the Law on Credit and Financial Institutions.

## Article 21

### (Obligatory documentation)

1. Irrespective of the payment method utilised, banks shall request the following documentation for any import of merchandise:



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- a) Commercial invoice, complying with the requirements of the International Chamber of Commerce;
  - b) Shipping documents, complying with the requirements of the International Chamber of Commerce;
  - c) Sole Customs Document, issued by the competent customs entity.
2. As regards transport, the following documents must be required:
- a) Bill of lading, if goods were transported by ship;
  - b) Air waybill, if goods were transported by air;
  - c) Shipment note, or other equivalent document, if goods were transported by rail;
  - d) Consignment note and cargo manifest, if goods were transported by road.

## **Article 22**

### (Commercial Invoice Requirements)

For the purposes of the provisions of paragraph 1, subparagraph a) of the previous Article, a commercial invoice must contain at least the following information, where applicable:

- a) Supplier / exporter: name, full address, country, telephone, fax and electronic address, if it exists;
- b) Consignee / importer: name, full address, country, telephone, fax and electronic address, if it exists, tax number (NUIT) and importer's number, if applicable;
- c) Date of issue of the commercial invoice, and respective number;
- d) Exact description of merchandise;
- e) Quantities, brands, models, serial numbers, units, gross and net weight, volume or metrage, and other specifications, in accordance with the type of goods or merchandise;
- f) Unit prices, value of transaction and currency in which values are expressed; and
- g) Terms of delivery and payment.

## **Article 23**

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(Shipping Document Requirements)

The shipping document shall contain the following information:

- a) The name of the shipper, or authorised agent;
- b) Signature and stamp of receipt, or other similar indications that merchandise has been received for loading;
- c) An indication of the place of loading and offloading of the merchandise;
- d) Number of originals issued, in the case of bills of lading;
- e) Certification, issued by the shipper, of the existence, or not, of agreement between the quantity and the description of merchandise contained in the invoice;
- f) Identification of the shipment method;
- g) Other requirements, depending on the payment method employed.

Article 24

(Sole Customs Document for bank use)

1. For the purposes of the provisions of Article 21, paragraph 1, subparagraph c), documents to be submitted to the bank for the purpose of making payment for imports shall be accompanied by the respective Sole Customs Document (*Documento Único*, or DU), issued by the competent entity.
2. In the case of the partial payment of invoices, the bank shall record the amount already paid, and the remainder, on the DU, and remaining payments shall be made through the same bank.
3. Situations in which the payment method utilised is that of documentary credit or documentary remittance, are exempted from the provisions of the previous paragraph.

Article 25

(Control Procedures)

1. Documents to which this sub-section refers shall be strictly checked by the bank, taking into account the payment method used.
2. Following verification and payment, documentation shall be endorsed and delivered to the importer.

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3. For each import operation, the bank shall open an individual file, which shall include the following documents:
  - a) Original Sole Customs Document, for bank use, if applicable;
  - b) Letter of documentary credit, and respective amendments to its terms, if applicable;
  - c) Commercial Invoice;
  - d) Shipping document;
  - e) Covering letter, if applicable;
  - f) *Bordereau* pertaining to payment;
  - g) Other correspondence relating to the operation.
4. The banks shall record and organise the forex operations which they undertake in terms of criteria, each payment method bearing a sequential number and an indication of the year to which it relates.
5. The information referred to in the previous paragraph shall always be available and up to date.

#### Article 26

##### (Payment Methods)

1. The following payment methods may be used when paying for transactions relating to the import of goods, in order of preference:
  - a) Documentary credit;
  - b) Documentary remittance;
  - c) Direct payment, either in advance or in arrears.
2. The characteristics and the scope of each of the methods indicated above shall be defined in terms of Article 3 of these Regulations.

#### Article 27

##### (Documentary credit)

1. When documentary credit is to be utilised, the importer shall be responsible for requesting such credit, and shall include the following information:

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- a) Complete and correct name of the beneficiary, and his address;
  - b) Amount and currency of credit;
  - c) Type of credit;
  - d) Conditions of reimbursement;
  - e) A brief description of merchandise, including quantities and unit prices, as indicated in the pro-forma invoice;
  - f) Summary description of required documentation;
  - g) Place of loading and destination of merchandise;
  - h) Whether partial loading is permitted or not;
  - i) Whether transshipment is permitted or not;
  - j) Validity for shipment (if applicable);
  - k) Validity of credit;
  - l) Manner of notifying the beneficiary.
2. In the use of the method referred to in this Article, banking customs and best practices shall be taken into account, and in particular, the uniform rules and customs issued by the International Chamber of Commerce.

#### Article 28

(Documentary remittance)

The provisions of the previous Article are applicable, with the necessary adaptations, to those cases of advance payment for imports in which negotiated conditions include the use of documentary remittance.

#### Article 29

(Direct Early Payments)

1. Total or partial direct payments in advance are permissible, provided that the provisions of Article 20, paragraphs 3 and 4, are complied with.
2. In the case of the import of goods, the production of which has not been concluded on the date of advance payment, the 90-day deadline for compliance with the obligation to deliver documentation evidencing the entry of goods into the national

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customs territory, shall be calculated as from the date contractually foreseen for the conclusion of the production of the said goods.

3. For all advance payments in an amount exceeding the equivalent of USD 50.000,00 (fifty thousand United States Dollars), a guarantee of due execution in an equal amount shall be required, to be issued by a banking institution recognised by the importer's bank.
4. The provisions of paragraph 3 are equally applicable to partial advance payments in individual amounts of less than the equivalent of USD 50.000,00 (fifty thousand United States Dollars), but which relate to the same pro-forma invoice, or to the same import process, the cumulative value of which exceeds such limit.
5. In any of the cases referred to above, unless there are weighty and duly substantiated reasons therefor, non-compliance with the deadline for the delivery of documents evidencing the entry of goods into the national customs territory within the time period set down in regulations, shall result in the refusal on the part of banks to perform future operations of the same nature, until the situation has been rectified.

### **Article 30**

(Consigned imports)

1. When the payment method agreed upon is that of a consigned import, payment to the consignor shall depend upon the presentation by the consignee importer to the bank, within the time period for the sale of the goods or merchandise agreed upon with the consignor, of:
  - a) the obligatory documentation referred to in paragraph 1 of Article 21 of these Regulations;
  - b) a commercial invoice relating to sales effected, specifying quantities and other measurements, or, if applicable, a declaration or proof of their loss or deterioration.
2. If the sale has not been effected, and the merchandise is to be returned, the consignee importer shall present evidence of the loading of the remaining goods and merchandise, to be returned to the consignor.

## **SUBSECTION II**

### **Payments for the Import of Services**

Article 31

(Scope)

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1. This subsection sets out the regulatory norms to be complied with in forex operations for the payment of services performed by non-resident entities, in favor of resident entities.
2. The services referred to in the previous paragraph, include, in particular:
  - a) the chartering of ships and aircraft;
  - b) the chartering of rail and road transport;
  - c) transport via oil or gas pipelines;
  - d) transport via pipelines, through the conducting of electricity;
  - e) ship's agency;
  - f) port and airport services;
  - g) rail and road services;
  - h) other services, which do not fall into any of the categories indicated above.
3. In the case of advance payments or direct early payments for the import of services, the provisions of these Regulations relating to arrear payments or direct payments for the import of goods shall be applicable, with the necessary adaptations.

## Article 32

### (Documentation and procedures)

1. For the purposes of forex registration, banks which are involved in the effecting of forex operations for the offshore payment of the price owed for services provided by non-residents shall obtain, from their clients, the information necessary for the correct classification of such operations, in particular, a description of the nature of the operation performed, and shall request their clients to present the following:
  - a) Identification of the parties;
  - b) Commercial invoice or debit note;
  - c) Shipping document, admissible in terms of international commercial norms, in the case of transport services, or those related to transport;
  - d) Contract for the provision of services, or other equivalent document, containing the terms and conditions for the performance of the service, if the characteristics or nature of the service in question justify it.

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### Article 33

#### (Offshore Insurance Payments)

Forex operations undertaken with a view to the payment of insurance contracted offshore by the insured himself, or by the person taking out such insurance, shall require presentation, by the interested parties, of proof that the necessary approval has been obtained from the competent entity, in the country, for the taking out of insurance offshore, in terms of applicable legislation.

### Article 34

#### (Payments for Technical Assistance Services)

1. Payment by a resident entity of the price of technical assistance services provided by a non-resident entity shall be effected by the presentation, to banks, of the following:
  - a) identification of the parties;
  - b) contract for the provision of services, in the format required by law;
  - c) commercial invoice or debit note;
  - d) proof of the performance of services, except in the case of advance payments, or direct early payments;
  - e) proof that tax owing, in respect of the transaction, has been paid or guaranteed.
  - f) The contract referred to in line b) of the previous paragraph shall be sent to the Bank of Mozambique by the interested parties, or by their bank, for the purposes of forex registration and the allocation of a number sequence, which shall serve as the sole reference number for future payment operations related to the contract.

### Article 35

#### (Transfer of the Salaries of Non-Residents)

The transfer of the salaries of non-resident entities shall be effected by the presentation, to banks, of the following:

- a) identification documents of the employee and the employing entity;
- b) employment agreement, duly approved by the Ministry of Labour or other competent entity, in those cases in which this is legally necessary, or proof of an

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exemption from the approval of the employment agreement, in those cases in which the labour legislation permits it;

- c) letter from the employing entity, listing the amounts to which the employee has a right;
- g) proof that tax owing, in respect of the transaction, has been paid or guaranteed.

#### Article 36

(Payment of the price of, or fees for, other types of services)

The payment by a resident entity, via bank transfer, of the price of or fees for any other type of services provided by a non-resident entity, in particular, construction services, assistance in court, and medical, artistic, sporting or other assistance, shall be effected against the presentation, to banks, of the following;

- a) identification of the parties;
- b) contract for the performance of services, in the format required by law;
- c) invoice;
- g) proof of the performance of services, except in the case of advance payments, or direct early payments;
- d) proof that tax owing, in respect of the transaction, has been paid or guaranteed.

### **SUBSECTION III**

#### **Other payments for imports**

#### Article 37

(Payments owed for the right to use industrial and intellectual property rights)

1. Payments owed for the right to use patents, authors' rights, franchise rights, commercial trademarks and other industrial and intellectual property rights shall be effected against presentation, to banks, of the following:

- a) identification of the parties;
- b) contract granting the right to use the rights, in the format required by law;
- c) proof of the authorization legally required, in terms of legislation relating to industrial and intellectual property rights;
- d) proof that tax owing, in respect of the transaction, has been paid or guaranteed.



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2. The contract referred to in subparagraph b) of the previous paragraph shall be sent to the Bank of Mozambique by the interested parties, or by their bank, for the purposes of forex registration and the allocation of a number sequence, which shall serve as the sole reference number for future payment operations related to the contract.

#### Article 38

(Payments for imports for philatelic and numismatic purposes)

1. The general rules for the import of goods set out in these Regulations shall be applicable, with the necessary adaptations, to the effecting of payments for the import of stamps for philatelic purposes.
2. The legal framework referred to in the previous paragraph shall also be applicable to cases involving the import of notes and coins for numismatic purposes.

#### Article 39

(Payments for subscriptions to publications)

The payment, by a resident entity, of the price for subscriptions to offshore publications, shall be made by the presentation to banks of the following:

- a) identification of the parties;
- b) invoice or debit note.

### **SUBSECTION IV**

#### **Other payments by residents**

#### Article 40

(Payment of foreign court costs)

The payment by a resident entity of foreign court costs shall be made by presenting the following to banks:

- a) identification of involved parties;
- b) evidentiary documents, issued by the court in question.

#### Article 41

(Payment of fines, taxes and compensation)

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The payment by a resident entity of fines, taxes and compensation, shall be made by presenting the following to the banks:

- a) identification of involved parties;
- b) documents evidencing the obligation to make payment, issued by the competent entity.

### **SECTION III**

#### **Resident Income**

#### **SUBSECTION I**

#### **Income from the export of goods**

#### **Article 42**

(General requirements)

1. For the purposes of the provisions of Article 9, paragraph 2 of the Foreign Exchange Law, any operation involving the export of goods shall be performed through the banks, using the following payment methods:
  - a) Documentary credit;
  - b) Documentary remittance;
  - c) Direct payment, in advance or in arrears.
2. The characteristics and scope of each of the methods indicated above shall be defined in terms of Article 3 of these Regulations.

#### **Article 43**

(Obligatory documents)

1. Irrespective of the method used, for each export of goods, the following documents shall be required:
  - a) Original Sole Customs Document, for bank use;
  - b) Commercial Invoice;
  - c) Shipping document, except in the case of advance payment.

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2. The provisions of the previous paragraph are not applicable in cases of export in which the payment method used is that of documentary remittance, or advance payment.

#### Article 44

##### (Verification of documents)

Documents shall be strictly checked by banks, taking into account the payment method used.

#### Article 45

##### (Opening of file)

For each export operation, banks shall open an individual file, which shall contain the following documents:

- a) Original Sole Customs Document, for bank use;
- b) Letter of documentary credit and respective amendments to its terms, if applicable;
- c) Covering letter addressed to the importer's bank, if applicable;
- d) Commercial Invoice;
- e) Shipping document;
- f) Payment *bordereau*;
- g) Other correspondence related to the operation;
- h) Proof of payment.

#### Article 46

##### (Documentary credit)

1. The banks shall be responsible for adequately assisting exporters to comply rigorously with the terms and conditions of documentary credit for the immediate payment of the export.
2. Prior to notifying the beneficiary exporter of the documentary credit, banks shall ensure that the terms and conditions of the credit are in accordance with the country's forex legislation, and that these can be complied with within the set time period.

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3. In the event that a clause exists which cannot be complied with, the credit institution shall recommend its client (exporter) to request the importer to amend it, and changes shall be communicated to the exporter's bank by the importer's bank, prior to the loading of merchandise.
4. When it is apparent that conditions have been complied with by the exporter beneficiary, the bank shall claim reimbursement, on the terms set out in the documentary credit.
5. If conditions have not been met, the bank shall have one of the following alternatives:
  - a) to request the exporter to amend the documents, in accordance with the requirements of the documentary credit;
  - b) to request authorization from the issuing or confirming bank to pay or to negotiate with the listed discrepancies;
  - c) to send the documentation to the issuing or confirming bank, for the taking of a decision regarding payment.

#### **Article 47**

(Documentary remittance)

1. When the method used to pay for an export, is that of documentary remittance, documentation must be examined by the bank, taking into account banking good practice for international commercial operations, in particular, the rules and uniform customs issued by the International Chamber of Commerce.
2. If the documents are in order, they shall be sent to the bank indicated by the exporter (the presenting bank), under cover of a covering letter, which shall also include the conditions for reimbursement.
3. Banks shall prove the entry of export income into the country, within a period of 90 days following the loading of merchandise.

#### **Article 48**

(Monitoring procedures)

1. Banks shall maintain a register of each type of operation, which shall contain the following information:
  - a) Sequential number of operation, including an indication of the year in which it took place;

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- b) Name of transferor;
  - c) Value of operation;
  - d) Name of beneficiary;
  - e) Negotiating bank, if applicable;
  - f) Confirming bank, if applicable;
  - g) Credit situation (cancelled, paid or extended), if applicable;
  - h) Reference number and date of the Sole Customs Document, for bank use.
2. Foreign exchange operations conducted in the context of exports, shall be registered and organised in accordance with criteria, using sequential numbering, by method, and with an indication of the year to which they relate.
  3. Information resulting from the registrations referred to in this Article shall be up to date and made available to the Bank of Mozambique, whenever requested by it.

## **SUBSECTION II**

### **Income from the export of services**

#### Article 49

#### (Scope)

1. This subsection sets out the regulatory norms to be complied with as regards forex operations for the receipt of income from the export of services performed by resident entities, in favor of non-resident entities.
2. The services included in the scope of the previous paragraph, are, in particular:
  - a) the chartering of ships and aircraft;
  - b) the chartering of rail and road transport;
  - c) transport via oil or gas pipelines;
  - d) transport via the conducting of electricity;
  - e) ships' agency;
  - f) port and airport services;
  - g) rail and road services;

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- h) technical assistance;
- i) other services, which do not fall into any of the categories indicated above.

#### Article 50

##### (Documentation and procedures)

1. For the purposes of forex registration, banks which are involved in forex operations for the receipt of income from the export of services, shall obtain, from their exporter clients, the information necessary for the correct classification of such operations, in particular, a description of the nature of the operation performed.
2. In addition to information describing the operation, the banks referred to in the previous paragraph shall request, from their clients, the presentation of the following:
  - a) identification of the parties;
  - b) a copy of the invoice issued by the exporter;
  - c) contract for the provision of services, or other equivalent document, containing the terms and conditions for the provision of the service.

### **SUBSECTION III**

#### **Other income from exports**

#### Article 51

(Income from the lease or utilisation of industrial and intellectual property rights)

1. For the purposes of forex registration, as well as the repatriation of income in cases in which the respective payments have taken place offshore, resident entities which rent patents, author's rights, franchise rights, commercial trademarks and other industrial and intellectual property rights, of which they are the title holders in the country, to non-residents, or allow the utilisation thereof by non-residents, shall present the following to the respective banks:
  - a) identification of the parties;
  - b) commercial invoice;
  - c) contract, containing the terms and conditions on which the lease or utilisation has been effected.

#### Article 52

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(Exports for philatelic purposes)

Payments for export operations involving stamps, for philatelic purposes, shall comply, with the necessary adaptations, with the general rules for the export of goods set out in these Regulations.

#### Article 53

(Export of Metical notes and coins for numismatic purposes, or for exhibition)

1. The export of Metical notes and coins for numismatic purposes, and for public exhibition, by a resident or non-resident entity, shall be subject to the prior authorization of the Bank of Mozambique, and shall comply with the requirements and procedures for the export of goods, on the terms set out in these Regulations.
2. For the purposes of authorization, the exporter shall submit the respective application, by completing the standard form provided by the Bank of Mozambique, duly substantiated by attachment of the following:
  - a) identification of the parties involved;
  - b) documents evidencing the planning of the exhibition, or the existence of conditions for the exhibition.

### **SECTION IV**

#### **Transfer of income**

#### Article 54

(General provisions)

1. The provisions of this section are applicable to operations involving the offshore transfer of income generated from capital operations previously authorised by the Bank of Mozambique, namely, of:
  - a) foreign direct investment, in the form of profits of distributed dividends;
  - b) portfolio investments, in the form of interest, dividends or capital gains;
  - c) loans, including shareholders' loans, in the form of interest;
  - d) other types of capital investment.
2. The transfer of income referred to in the previous paragraph shall not require the authorization of the Bank of Mozambique, but shall, however, be subject to forex registration, as set out in Article 6, paragraph 1 of the Foreign Exchange Law.

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3. For the purposes of forex registration, interested parties shall present, to intermediary banks, the documents which characterise and legitimise the operation, in accordance with that set out in this section.
4. The documents referred to in the previous paragraph shall be reviewed and decided upon by the intermediary bank, which shall remit the information collected to the Bank of Mozambique for the purposes of registration, in the manner set out in Article 6 of these Regulations.

### **Article 55**

(Transfer of income from foreign direct investment)

1. Forex registration of the transfer of income from foreign direct investment, in the form of profits or distributed dividends, shall be effected against the presentation, by the interested party, to the intermediary bank, of the following:
  - a) identification of the parties involved;
  - b) proof of registration of the investment with the Bank of Mozambique;
  - c) declaration, issued by an independent auditor, confirming that the profits flow from the financial year or years in question, and from operations relating to the activities of the company, explaining whether the profits were determined prior to or after any transfers required by Law;
  - d) proof of the consent of the competent corporate body, or, in the case of the transfer of dividends, a resolution of the General Assembly meeting which decided upon the division of profits;
  - e) proof that tax owing, in respect of the transaction, has been paid or guaranteed.

### **Article 56**

(Transfer of income from portfolio investments)

Forex registration of the transfer of income from portfolio investment returns, in the form of interest, dividends or capital gains, shall be effected against the presentation by the interested party to the intermediary bank of the following:

- a) identification of involved parties;
- b) proof of entry of funds into the country;
- c) certificate pertaining to the amount to be transferred, namely, coupon, statement or other;



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- d) proof that tax owing, in respect of the transaction, has been paid or guaranteed.

#### **Article 57**

(Transfer of income flowing from loans or shareholder's loans)

Forex registration of the transfer of income flowing from loans or shareholders' loans granted by a non-resident entity, in the form of interest, shall be effected against the presentation, by the interested party, to the intermediary bank, of the following:

- a) identification of interested parties;
- b) proof of forex authorization for the loan, or shareholders' loan;
- c) proof of registration of the disbursement;
- d) repayment plan, or debit note;
- e) proof that tax owing, in respect of the transaction, has been paid or guaranteed.

#### **Article 58**

(Transfer of income from bank deposits, made within the country by non-resident entities)

Forex registration of the transfer of income from bank deposits made within the country by non-resident entities, in the form of interest, shall be effected against the presentation, by the interested party, to the intermediary bank, of the following:

- a) identification of the parties involved;
- b) proof that tax owing, in respect of the transaction, has been paid or guaranteed.

#### **Article 59**

(Transfer of income flowing from other forms of capital investment)

Forex registration of the transfer of income flowing from other forms of capital investment by a non-resident entity shall be effected against the presentation, by the interested party, to the intermediary bank, of the following:

- a) identification of the parties involved;
- b) proof of forex authorization for the capital operation;
- c) proof that tax owing, in respect of the transaction, has been paid or guaranteed.

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## **SECTION V**

### **Current Transfers**

#### Article 60

##### (Scope)

This section is applicable to current transfers, i.e., those effected to foreign countries in a unilateral manner, without counter-performance, in particular:

- a) transfers of cash donations;
- b) transfers of maintenance payments;
- c) remittances of amounts for family expenses;
- d) other current obligations.

#### **Article 61**

##### (Requirements and procedures for current transfers)

1. Current transfers do not require the authorization of the Bank of Mozambique, but must comply with the procedures set out in these Regulations for the purposes of verification and forex registration.
2. For the purposes of undertaking any current transaction, the interested party shall present the following to the intermediary bank:
  - a) identification documents of the transferor;
  - b) an indication of the relationship between the transferor, and the intended beneficiary;
  - c) documents evidencing the facts or characterisation of the transaction, which constitute the basis for the request, and which confer legitimacy on the individual requesting the transfer;
  - d) proof of the source of income of the transferor, if the circumstances make this necessary;
  - e) proof that tax owing, in respect of the transaction, has been paid or guaranteed.
2. When dealing with monetary amounts or payment methods denominated in foreign currency, the transferor must prove the legitimacy of his possession thereof, issued by entities authorised to trade in forex.

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## **CHAPTER IV**

### **Capital Operations**

#### **SECTION I**

#### **General Provisions**

##### Article 62

(Classification of operations)

1. Capital operations shall always be effected through the banking system.
2. As set out in paragraph 5 of Article 6 of the Foreign Exchange Law, capital operations shall be classified as:
  - a) Foreign direct investment operations;
  - b) Real estate investment operations;
  - c) Operations pertaining to certificates of participation in collective investment bodies;
  - d) The opening and transacting of accounts with foreign financial institutions;
  - e) Credit connected to merchandise transactions, or transactions for the performance of services;
  - f) Loans and financial credit;
  - g) Guarantees;
  - h) Transfers in execution of insurance contracts;
  - i) Portfolio investment operations relating to securities and other instruments traded on the money and capital markets;
  - j) The physical import and export of monetary amounts;
  - k) Loans of a personal nature;
  - l) Other operations qualified as capital operations, which come to be so defined by law.

##### Article 63

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(Applications for authorization)

1. Applications for the import or export of private capital, qualified as such in terms of paragraph 5 of Article 6 of the Foreign Exchange Law, shall be directed to the Bank of Mozambique by the interested party himself, or by his bank.
2. Applications for authorization shall be accompanied by all information or evidence necessary for the complete legal and economic characterisation of the operation, the identification of the parties involved, and a determination of the value of the operation and the manner of compliance with the obligation.
3. Whenever necessary, the Bank of Mozambique may require additional information from the parties involved in the operation.

Article 64

(Decision)

1. The Bank of Mozambique shall decide on the application for authorization within a period of 15 working days, counting from the date of its receipt, provided that is duly substantiated.
2. The calculation of the time period referred to in the previous paragraph shall be suspended in the case of insufficient substantiation which requires regularisation, or if the Bank of Mozambique deems necessary, and requests, additional information, and the suspension shall endure for the period for which investigations persist.
3. The authorization shall be granted by way of the issuing of two copies of an authorization bulletin, on a form to be provided by the Bank of Mozambique, the original being for the applicant, and the duplicate copy for the intermediary bank.
4. The decision of the Bank of Mozambique shall take into account, amongst other criteria, the availability of foreign currency, the macroeconomic situation in the country, and conditions on the forex market.

Article 65

(Amendments)

Any amendments to the initially authorised operation shall follow the procedures indicated for the granting of the authorization.

Article 66

(Principle of exclusivity as regards the investment of capital)

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Imported or exported capital may not be invested in a manner, or for another purpose, than that indicated in the respective authorizations.

## **SECTION II**

### **Direct Investment**

#### **SUBSECTION I**

##### **Direct investment offshore**

###### **Article 67**

(Application for the authorization of investment by resident entities abroad)

An application for authorisation for the effecting, by a resident entity, of foreign direct investment, shall be made by completing the standard form provided by the Bank of Mozambique, duly substantiated, in accordance with the specifics thereof, by the following:

- a) In the case of the incorporation of a company, where the investor is an individual:
  - (i) identification documents of the applicant investor;
  - (ii) document evidencing the funds, and their lawful origin;
  - (iii) economic and financial viability study, in respect of the project;
  - (iv) authorisation from the regulating entity in the country for which the investment is destined;
  - (v) proof of good tax standing.
- b) In the case of the incorporation of a company, where the investor is a collective person:
  - (i) the identification documents, including, in particular, articles of association and documents evidencing shareholding structure, specifying participations in share capital;
  - (ii) economic and financial viability study, in respect of the project;

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- (iii) resolution of the General Assembly or other competent corporate body, authorising participation in the share capital of the company to be incorporated;
  - (iv) proof of good tax standing.
- c) In the case of investment in existing companies:
- (i) the investor's identification documents;
  - (ii) proof of the legal existence of the company;
  - (iii) resolution of the General Assembly, or other competent corporate body of the company, authorising participation in the share capital of the company in question, in the case of a collective person;
  - (iv) proof of the lawful origin of the funds or goods to be invested;
  - (v) proof of good tax standing.
- d) In the case of the reinvestment of profits:
- (i) proof of dividends generated;
  - (ii) resolution of the General Assembly, authorising the reinvestment of profits, in the case of a collective person;
- e) In the case of debt conversion:
- (i) proof of the granting of loans to the company, previously authorised by the Bank of Mozambique;
  - (ii) agreement for the conversion of the loan into capital.

#### Article 68

(Loans granted by a resident entity to a company in which it holds shares, or a related company, offshore)

An application for the authorisation of the granting of a loan from a resident entity, to a company in which it holds shares or which is related to it, offshore, shall be effected by completing the standard form provided by the Bank of Mozambique, duly substantiated by the attachment of the following documents:

- a) identification documents of the parties involved;

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- b) audited financial statements, or proof of funds and their lawful origin;
- c) resolution of the General Assembly or other competent corporate body, authorising the granting of the loan;
- d) proof of inter-company relationship, indicating, in particular, share participation or membership of the same group of companies;
- e) proposed financing agreement;
- f) proof of good tax standing, as regards the transaction.

## **SUBSECTION II**

### **Foreign direct investment in Mozambique**

#### Article 69

##### (Scope of application)

1. This subsection sets out the rules to be complied with in the process of the authorization and forex registration of foreign direct investment in Mozambique.
2. In the case of an investment related to a credit or financial institution, and in addition to the provisions of these Regulations, the specific rules which regulate entities of that nature shall be complied with.

#### Article 70

##### (Registration of direct investment)

1. Foreign direct investment shall be subject to registration with the Bank of Mozambique, which shall be effected within a period of 90 days, counting from the date of the authorization of the competent entity, or of the effective entry of the investment amount.
2. The registration of the investment, for the purposes of forex control, shall be effected by completing the respective form provided by the Bank of Mozambique, and attaching the following documents:
  - a) identification documents, and a copy of the bank *bordereau* issued by the investor's bank, proving the receipt of foreign currency by the enterprise, when the investment is made by way of the entry of foreign currency;

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- b) identification documents and proof of the definitive entry of goods, when the investment is made by way of the import of equipment, machinery or other material goods set out in the respective terms of authorization, and the respective value shall be determined with reference to CIF prices, in terms of applicable investment legislation;
- c) For the purposes of registration, in those cases in which the investment is made by way of the right to utilise patented technologies and registered trademarks, its value shall be determined on the terms set out in the respective authorization;
- d) A failure to register the investment within the time period set out in paragraph 1 of this Article shall result in the non-recognition of the right to export profits or dividends, or to re-export invested capital.

#### Article 71

(Registration of direct investment by way of an increase of share capital)

1. The registration of foreign direct investment by way of an increase of share capital, by the re-investment of profits, shall be effected by completing the respective form provided by the Bank of Mozambique, duly substantiated by means of the following:
  - a) identification documents of the parties;
  - b) proof of the registration of the initial investment;
  - c) audited financial statements for the tax year or tax years to which the profits pertain;
  - d) a resolution of the General Assembly, approving the profits and their investment or re-investment in the form of an increase of share capital.
2. In cases in which an investment by way of an increase in share capital takes the form of a debt conversion, the following documents shall be attached to the form referred to in the previous paragraph for the purposes of registration:
  - a) the parties' identification documents;
  - b) a resolution of the General Assembly, authorising the increase of share capital by way of the conversion of debts;
  - c) agreement for the conversion of debt into share capital, indicating whether the conversion is in whole or in part, and if in part, the proportion to be converted;



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- d) a copy of the agreement which gave rise to the debt to be converted, with an indication of the respective forex authorization.

## Article 72

(Investment by way of a loan received from companies in which shares are held, or related companies)

1. An application for authorization for the receipt of a loan from a non-resident entity which holds shares in, or is related to, the resident beneficiary entity, shall be effected by completing the standard form provided by the Bank of Mozambique, duly substantiated by way of the following documentation:
  - a) the parties' identification documents;
  - b) financial statements;
  - c) proof of the inter-company relationship, indicating, in particular, share participation, or membership of the same group of companies;
  - d) resolution of the General Assembly or other competent company body, authorising the contracting of the debt;
  - e) draft financing agreement.
2. When considering the application, the following criteria shall be taken into account, inter alia:
  - a) the interest rate, which shall not be equal to or in excess of the interest rate used in the market, and shall preferably be zero;
  - b) the capacity of the applicant entity to generate foreign currency funds from the investment of the loaned funds.

## Article 73

(Re-export of invested capital)

An application for the authorization of the re-export of invested capital, in the case of the liquidation of the company, or of de-investment, shall be effected by completing the standard form provided by the Bank of Mozambique, duly substantiated by the following documents:

- a) the parties' identification documents;
- b) proof of the making of foreign direct investment;

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- c) financial statements relating to the liquidation of the company;
- d) resolution of the General Assembly, authorising the liquidation or de-investment;
- e) proof of compliance with tax obligations, as regards the general situation of the applicant entity;
- f) legal entities' registration certificate, evidencing the liquidation.

### **SECTION III**

#### **Real estate investment**

##### Article 74

(Real estate investment)

Applications for authorization for the making of real estate investment by a resident, abroad, or by a non-resident, in the country, shall be effected by completing the standard form provided by the Bank of Mozambique, duly substantiated by the following documents:

- a) identification documents of the parties involved;
- b) property registration documents, duly authenticated;
- c) promissory agreement, containing the terms and conditions on which the transaction is intended to be conducted;
- d) document evidencing income or payment methods of the buyer;
- e) proof of compliance with tax obligations pertaining to the transaction.

### **SECTION IV**

#### **Operations involving certificates of participation in collective investment bodies**

##### Article 75

(Certificates of participation in collective investment bodies located abroad)

1. An application for the authorisation of the acquisition of certificates of participation in collective investment bodies located abroad, shall be effected by completing the standard form provided by the Bank of Mozambique, duly substantiated by the following documents:
  - a) identification documents of the parties involved;

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- b) proposed investment agreement;
  - c) document proving the existence of the body for which the investment is intended;
  - d) proof of income, or financial statements, depending on whether the person involved is an individual or a collective person;
  - e) proof of compliance with tax obligations.
2. For the purposes of forex registration, the interested party shall provide a definitive investment agreement, and a copy of the participation certificate.

## **SECTION V**

### **Opening and transacting of accounts**

#### Article 76

(Opening and transacting of accounts with offshore financial institutions)

1. The opening and transacting of accounts by resident entities with offshore financial institutions shall be subject to the authorization of the Bank of Mozambique.
2. The application for authorisation shall be effected by completing the standard form provided by the Bank of Mozambique, duly substantiated by attachment of the following documents:
  - a) identification documents;
  - b) proof of justification for the opening of an account offshore, as well as funding sources.
3. An account to be held by a resident entity offshore shall preferably be opened with a financial institution which corresponds to a bank authorised to operate in Mozambique.
4. The holder of the account shall inform the Bank of Mozambique of the number and domicile address of the account so opened within a period of thirty days, counting from the date of its opening, and shall provide an account statement, reflecting the transactions effected thereon, on a quarterly basis.

## **SECTION VI**

### **Credit connected to merchandise or service performance transactions**

#### Article 77

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(Scope)

This section sets out the rules regulating credit between residents and non-residents, resulting from the fact that the supplier of goods or service provider delivered merchandise, or provided services on trust, without immediate receipt of the respective price, giving the importer or beneficiary of services a time period within which to make payment in arrears, with or without interest.

Article 78

(Credit connected to the import of merchandise)

1. Without detracting from the obligation to register the transaction, set out in Article 6, paragraph 1 of the Foreign Exchange Law, the contracting of credit related to the import of merchandise, with or without interest, shall be subject to the authorisation of the Bank of Mozambique when the time period within which payment must be made exceeds two years, and the respective application shall be made by completing the standard form provided by the Bank of Mozambique, substantiated by attachment of the following:
  - a) the parties' identification documents;
  - b) a pro-forma invoice, or other contractual document, indicating the conditions of credit, issued by the supplier;
  - c) repayment plan in respect of the credit so contracted.
2. The authorization referred to in the previous paragraph shall predate the effecting of the import.

Article 79

(Credit connected to the export of merchandise)

1. The granting of credit related to the export of merchandise, with or without interest, shall be subject to the authorisation of the Bank of Mozambique, prior to the effecting of the export, when the time period within which payment must be made exceeds 2 years, and the respective application shall be made by completing the standard form provided by the Bank of Mozambique, substantiated by the following:
  - a) the parties' identification documents;
  - b) a pro-forma invoice or other contractual document, indicating the conditions of credit, issued by the supplier;
  - c) repayment plan in respect of the credit so contracted.

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#### Article 80

(Credit connected to the import of services)

1. The contracting of credit related to the import of technical assistance services or services of another nature, with or without interest, shall be subject to the authorisation of the Bank of Mozambique, prior to the performance of the services, when the time period within which payment must be made exceeds 2 years, and the respective application shall be made by completing the standard form provided by the Bank of Mozambique, substantiated by the following:
  - a) identification documents of the parties involved;
  - b) draft contract for the provision of services;
  - c) pro-forma invoice or other contractual document, indicating the conditions of credit, issued by the service provider.
2. In the case of credit resulting from the conversion of fees owed for services already rendered, where payment has been delayed, the authorization of the respective application shall be conditional upon the prior payment of all tax obligations which were due prior to the conversion.

#### Article 81

(Credit connected to the export of services)

1. The granting of credit related to the export of services, whatever their nature, and with or without interest, shall be subject to the authorization of the Bank of Mozambique, prior to the performance of services, when the time period for reimbursement exceeds 2 years, and the respective application shall be made by completing the standard form provided by the Bank of Mozambique, substantiated by the following:
  - a) identification documents of the parties involved;
  - b) draft contract for the provision of services;
  - c) pro-forma invoice or other contractual document, indicating the conditions of credit, issued by the service provider.

### **SECTION VII**

#### **Loans or financial credit**

#### Article 82

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(Scope)

1. This section is applicable to loan or financial credit operations concluded between residents and non-residents, but is not applicable to loans of a personal nature, as defined in these regulations.
2. The provisions of this section are also applicable, with the necessary adaptations, to shareholders' loans made by shareholders to a commercial company.

Article 83

(Financial loans received from offshore)

1. An application for authorisation for the contracting of a loan or financial credit from offshore, shall be effected by completing the standard form provided by the Bank of Mozambique, duly substantiated by the following documents:
  - a) identification documents of the parties;
  - b) copy of the loan or credit proposal;
  - c) rationale, setting out the economic or social reasons which justify the indebtedness;
  - d) financial statements, or proof of the source of resources for the repayment of the loan.
2. For the purposes of consolidating the forex registration and the commencement of disbursements, the lender shall remit an authenticated copy of the loan agreement to the Bank of Mozambique within a period of thirty days, counting from the date of its signature.
3. The registration of the disbursements referred to in the previous paragraph shall be made by completing the standard form provided by the Bank of Mozambique, duly substantiated by way of the following:
  - a) bank *bordereau* issued by the lender's bank, evidencing the entry of funds;
  - b) evidence of the entry of goods, when the disbursement is made by way of the import of equipment, machinery or other material goods set out in the respective terms of the contract, and the respective value shall be determined with reference to CIF prices.
4. Unless stipulated to the contrary, loans shall not be authorised if the disbursement thereof is conditional upon the issuing of guarantees by the State, or by the Bank of Mozambique.

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#### Article 84

##### (Servicing of debt)

1. The control and monitoring of debt servicing shall be the exclusive responsibility of the lender.
2. The payment of interest and other charges flowing from the loan constitutes a current transaction, and shall not require the authorization of the Bank of Mozambique.
3. Without detracting from the provisions of the previous paragraph, payments relating to the repayment of capital (principal) shall be subject to registration by way of the completion of the standard form provided by the Bank of Mozambique, duly substantiated by attachment of a demand, or debit note.
4. The making of transfers inherent to the payment referred to in paragraph 2 shall comply with the procedures set out in Article 57 of these Regulations.

#### Article 85

##### (Financial loans granted offshore)

1. An application for the granting of a loan or financial credit by a resident to a non-resident, abroad, shall be made by completing the standard form provided by the Bank of Mozambique, substantiated by attachment of the following:
  - a) identification documents of the parties;
  - b) copy of proposed loan or credit agreement;
  - c) financial statements.
2. For the purposes of the consolidation of the forex registration, the lending entity shall remit to the Bank of Mozambique an authenticated copy of the loan or credit agreement, containing, inter alia, a repayment plan, within a period of 30 days, counting from the date of its signature.
3. Income derived from repayment by the borrower shall comply, with the necessary adaptations, with the rules set out in article 8 of these Regulations.

#### Article 86

##### (Shareholders' Loans)

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In those cases in which a loan or financial credit takes the form of a shareholders' loan, interested parties shall, in addition to the documents referred to in articles 83 and 85 of these Regulations, attach the following to the authorisation application:

- a) copy of the resolution of the General Assembly which authorised the shareholders' loans;
- b) bank *bordereau*, evidencing the entry or exit of capital, in favor of the borrowing entity.

## **SECTION VIII**

### **Bank Guarantees**

#### Article 87

(Guarantees granted by residents to non-residents)

1. Except as stipulated in sub-article 3 of this article, any resident entity, including banks, shall submit any types of guarantees to the Bank of Mozambique, for prior approval, if they involve payments to:
  - a) a non-resident, in meticaís or in foreign currency;
  - b) a resident, in the name of and for the account of a non-resident.
2. Applications for authorisation shall be effected by completing the standard form provided by the Bank of Mozambique, substantiated by attachment of the following:
  - a) the parties' identification documents;
  - b) rationale, indicating the reasons for the application, as well as the resources with which payment will be made, in the case of the guarantee being called in.
3. Any guarantee which meets at least one of the following requirements shall not require the prior approval of the Bank of Mozambique:
  - a) issued for a period of equal to or less than 360 days;
  - b) issued in favor of a non-resident entity, or for the account of a resident entity, in terms of a transaction for which the prior approval of the Bank of Mozambique has already been obtained;
  - c) for the account of a non-resident, for any purpose, provided that it has been counter-guaranteed by the deposit of an equal amount, payable on first demand;



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- d) while being for the account of a resident or non-resident, it has been granted in favor of the customs authorities, in the course of negotiations regarding the absence of documentation, the authenticity of signatures, and the redemption of merchandise upon receipt.
4. If the requirements set out in this article have been complied with, banks may effect any payments in terms of the said guarantees, when these were not issued by the same banks.

#### Article 88

(Guarantees granted by non-residents, to residents)

The obtaining and utilisation, by a resident, of any bank guarantee issued by a non-resident entity, shall be subject to the authorisation of the Bank of Mozambique, and the respective application shall be effected by completing the standard form provided by the Bank of Mozambique, duly substantiated by the attachment of the following:

- a) identification documents of the interested party, and of the entity issuing the guarantee;
- b) rationale, indicating the reasons for the application;
- c) document containing the terms and conditions for the issuing of the guarantee.

### **SECTION IX**

#### **Transfers in execution of insurance contracts**

#### Article 89

(Scope)

1. Transfers between residents and non-residents, in execution of insurance contracts exceeding 1 year in duration, or which are related to a capital operation, shall be classified as capital operations.
2. Transfers related to insurance which do not meet the requirements set out in the previous sub-clause shall constitute current transactions, and as such shall not require the authorisation of the Bank of Mozambique, without detracting from the procedures inherent to verification and control, on the general terms set out in these Regulations.

#### Article 90

(Transfers in execution of insurance contracts)

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1. The performance of any transfer in execution of an insurance contract which may be classified as a capital operation in terms of sub-article 1 of the previous article, shall be subject to the authorisation of the Bank of Mozambique, and the respective application shall be made by completing the standard form provided by the Bank of Mozambique, duly substantiated by attachment of the following:
  - a) identification documents of the parties involved, including the beneficiary;
  - b) proposed insurance policy;
  - c) the favorable opinion of the Inspector-General of Insurance;
  - d) evidence of the source of resources for the payment of premiums.
2. The provisions of the previous sub-article shall be applicable in the case of insurance granted by a resident to a non-resident, and in the opposite case.

## **SECTION X**

### **Operations relating to securities and other instruments traded on the money and capital markets**

#### Article 91

(Securities and other instruments traded on money and capital markets, offshore)

1. An application for authorisation for the performance of operations involving securities and other instruments traded on offshore capital markets shall be made by completing the standard form provided by the Bank of Mozambique, duly substantiated by attachment of the following:
  - a) identification documents of the parties involved;
  - b) document containing the terms and conditions of the trade, including correspondence exchanged with intermediary entities, regarding the investment;
  - c) documents relating to the identity of the entity brokering the trade, namely, the portfolio manager, broker, and custodian;
  - d) proof of income or financial statements, depending on whether the person concerned is an individual, or a collective person;
  - e) proof of compliance with tax obligations.
2. For the purposes of the consolidation of forex registration, the interested entity shall also present proof of the offshore investment of the funds.

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#### Article 92

##### (Declaration and repatriation)

Operations performed in terms of the provisions of articles 75 and 91 shall be subject to a duty of declaration, and, if the investment is discontinued, the respective funds shall be subject to a repatriation obligation.

#### Article 93

##### (Securities and other instruments traded on the money and capital markets in Mozambique)

1. The effecting, in the country, of operations relating to money or capital market securities, by non-resident entities, shall be effected through financial brokers authorised to operate in Mozambique, with the authorisation of the Bank of Mozambique.
2. For the purposes of the previous sub-article, it shall be the responsibility of financial brokers to submit applications to the Bank of Mozambique, as well as to conduct the entire process inherent to registration, and, if applicable, the re-export of invested capital and gains.
3. Authorisation by the Bank of Mozambique shall be subject to the presentation by the interested entity of the respective application, by way of the following documents:
  - a) authorisation application form, on the standard form provided by the Bank of Mozambique, duly completed;
  - b) identification documents of the investor;
  - c) proof of the lawfulness of the possession of the funds to be invested.
4. The export of capital and of gains shall be conditional upon the presentation of evidence of compliance with tax obligations.
5. The authorisation of money market operations shall also be dependent upon market conditions, as evaluated by the Forex authority.
6. The rules set out in the previous sub-articles shall not apply to operations involving securities or other instruments traded by non-residents on the Stock Exchange, which shall be subject to special rules, as set out in these Regulations.

### SECTION XI

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### **Physical import and export of monetary amounts**

#### Article 94

(Import and export of foreign notes or metallic coins)

1. The Bank of Mozambique may, and on the application of banks, issue import and export authorisation bulletins in respect of foreign notes and coins.
2. Import and export authorisation bulletins in respect of foreign notes and coins shall be issued with a validity corresponding to the timeframe indicated in the import or export application, up to a maximum of 1 year.
3. Once the corresponding import or export authorisation bulletin in respect of foreign notes and coins has been issued by the Bank of Mozambique, the bank shall be obligated to register, on a daily basis, and in accordance with procedures to be determined by the Bank of Mozambique, statistical information regarding imports or exports effected.

#### Article 95

(Import and export of securities)

1. The provisions of this article shall be applicable, with the necessary adaptations, to the wholesale import or export, for commercial purposes, of bills, promissory notes, invoice statements, shares, bonds - whether national or foreign, coupons, as well as public debt securities, effected by authorised entities.
2. The rules referred to in the previous sub-article shall not be applicable in cases in which the import or export of securities takes place in the context of Stock Exchange operations, which shall comply with special rules.

## **SECTION XII**

### **Loans of a personal nature**

#### Article 96

(Loans of a personal nature received from offshore)

1. An application for authorisation for the contracting of a loan of a personal nature shall be effected by completing the standard form provided by the Bank of Mozambique, duly substantiated by attachment of the following documents:
  - a) identification documents of the lender and the borrower;
  - b) copy of the proposed loan agreement;

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- c) rationale regarding the reasons, of an economic or social nature, which justify the indebtedness;
  - d) a statement regarding the source of resources for the repayment of the loan;
  - e) proof of the lawful origin of borrowed funds.
2. For the purposes of the consolidation of the forex registration and the commencement of disbursements, the lender shall remit, to the Bank of Mozambique, the reference number and an authenticated copy of the loan agreement, within a period of 30 days, counting from the date of its signature.
  3. Unless otherwise stipulated, loans shall not be authorised if their disbursement conditional upon the issuing of guarantees by the State, or the Bank of Mozambique.

#### Article 97

##### (Loans of a personal nature granted to a foreigner)

1. An application for authorization for the granting of a loan of a personal nature, by a resident to a non-resident, abroad, shall be effected by completing the standard form provided by the Bank of Mozambique, duly substantiated by the following documents:
  - a) identification documents of the lender and the borrower;
  - b) copy of the proposed loan agreement;
  - c) rationale, regarding the economic or social reasons which justify the indebtedness;
  - d) an indication of the source of resources for the repayment of the loan;
  - e) proof of the lawful origin of the funds loaned.
2. For the purposes of consolidation of the forex registration and the commencement of disbursements, the lender shall remit, to the Bank of Mozambique, an authenticated copy of the loan agreement, within a period of 30 days, counting from the date of its signature.

## CHAPTER V

### Other foreign exchange operations

#### SECTION I

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### **Other foreign exchange operations subject to authorisation**

#### **SUBSECTION I**

#### **Other capital transactions**

##### Article 98

(Transfers and receipts not qualified as current transactions)

1. Transfers abroad, and receipts abroad, not qualified as current operations, shall be subject to the prior authorization of the Bank of Mozambique, by virtue of the provisions of line i) of sub-article 3 of Article 6 of the Foreign Exchange Law.
2. The provisions of the previous paragraph have bearing on, amongst other operations, the transfer or receipt of:
  - a) inheritances and legacies;
  - b) amounts relating to taxes on inheritances and legacies;
  - c) amounts relating to various forms of compensation, not connected to insurance, provided that they are of a capital nature;
  - d) assets held in the country by non-residents, or by residents abroad, in the case of immigration or emigration;
  - e) reimbursements effected in the case of the annulment of contracts, or undue payments, of a capital nature.
  - f) payments due for the purchase or sale of author's rights, trademarks, licences, patents, franchising, royalties or other industrial and intellectual property rights.
2. For the purposes of authorization, the interested party shall, by himself, or by way of a bank authorised to operate in Mozambique, submit the respective application, by completing the standard form provided by the Bank of Mozambique, duly substantiated by way of the following documents:
  - a) identification documents of the parties involved;
  - b) documents evidencing the facts or nature of the transaction, which constitute the basis for the application, and which confer legitimacy on the applicant;
  - c) evidence of compliance with inherent tax obligations, in terms of applicable legislation.

#### **SUBSECTION II**

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### **Other Forex Operations**

#### Article 99

##### (Acquisition or Alienation of Minted Gold or Silver)

1. The acquisition or alienation of minted gold or silver shall require the authorization of the Bank of Mozambique, by virtue of the provisions of line a) of sub-article 3 of Article 6 of the Foreign Exchange Law.
2. For the purposes of authorization, the interested entity shall, by itself, or by way of a bank authorised to operate in Mozambique, submit the respective application, by completing the standard form provided by the Bank of Mozambique, duly substantiated by attachment of the following:
  - a) identification documents of the parties involved;
  - b) document containing the terms and conditions of the acquisition or alienation;
  - c) in the case of alienation, evidence of lawful possession.
3. The provisions of paragraphs 1 and 2 of this Article are not applicable in cases of acquisition and alienation for commercial purposes.

#### Article 100

##### (Export of precious metals)

1. The export of gold, silver, platinum or other precious metals, in bars, ingots or other unworked form, shall require the authorization of the Bank of Mozambique, by virtue of the provisions of line b) of sub-article 3 of Article 6 of the Foreign Exchange Law.
2. For the purposes of authorization, the interested entity shall, by itself, or through a bank authorised to operate in Mozambique, submit the respective application, by completing the standard form provided by the Bank of Mozambique, duly substantiated by attachment of the following:
  - a) identification documents of the parties involved;
  - b) document containing the terms and conditions of export;
  - c) commercialisation licence;
  - d) exporter's licence, in the case of first exports.

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3. In the case of second or subsequent exports, the authorization of the Bank of Mozambique shall depend upon the presentation of proof of repatriation of income from the last export.
4. Whenever there is an export of gold, silver, platinum or any other precious metal, for sale, or as a transfer in lieu of payment, the Bank of Mozambique shall have a preferent right to purchase the said metals, on the same terms as are contained in the proposal for sale or transfer in lieu of payment.

#### Article 101

(Opening and transacting of accounts of non-residents in national currency, related to capital operations)

1. The opening and transacting of accounts in national currency by a non-resident entity, when related to capital operations, shall require the authorization of the Bank of Mozambique, by virtue of the provisions of line c) of sub-article 3 of Article 6 of the Foreign Exchange Law.
2. The application for authorization for the opening of an account shall be submitted to the Bank of Mozambique by the interested party, or through a bank authorised to operate in Mozambique, at the same time as the submission of an application for the authorization of the respective capital operation, or separately, in cases in which the need for the opening of a bank account arises after the fact.
3. In any of the cases referred to in the previous paragraph, the application for authorization shall be substantiated by at least the following:
  - a) identification documents;
  - b) an explanation of the nature of the capital operation to which the account relates;
  - c) conditions for the transacting of the bank account, in terms of obligatory requirements and purposes.
4. When opening accounts with banks, the same requirements as apply to the opening of bank accounts, in general, must also be complied with.

#### Article 102

(Opening and transacting of accounts in foreign currency)

1. The opening and transacting of new accounts in foreign currency, or in units of account utilised for international compensation or payment by residents, shall be subject to the authorization of the Bank of Mozambique, by virtue of the provisions of line d) of sub-article 3 of Article 6 of the Foreign Exchange Law.



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2. For the purposes of authorization, the interested entity shall, by itself, or through a bank authorised to operate in Mozambique, submit the respective application, by completing the standard form provided by the Bank of Mozambique, duly substantiated by the attachment of identification documents.
3. Accounts in foreign currency held by resident entities shall be funded from the following sources:
  - a) As regards individual persons:
    - i. the deposit of notes, or traveller's cheques;
    - ii. bank account transfers;
    - iii. funds flowing from loans contracted offshore;
    - iv. the deposit of other payment methods, accepted by the banking system.
  - b) As regards collective persons:
    - i. funds flowing from loans, or destined for their repayment;
    - ii. funds flowing from export income, or from the returns of offshore investments, up to a limit of fifty percent, as set out in line a) of sub-article 4, and line c) of sub-article 8, of Article 8 of these Regulations.
4. The withdrawal of funds from resident accounts in foreign currency may only be effected for the purposes of offshore travel, and shall be limited to a maximum amount of USD 5.000,00 (five thousand United States Dollars), per transaction.
5. The provisions of the previous paragraph shall be applicable to accounts in foreign currency held by non-residents, the opening and transacting of which, when not related to capital operations, shall not require the authorization of the foreign exchange authority, and shall comply with the general requirements for bank accounts.
6. The effecting of debits in foreign currency resident accounts, when intended for offshore payments, shall be subject to compliance with the requirements inherent to the forex operation concerned, on the terms set out in these Regulations.

## **SECTION II**

### **Payment of Contributions to Foreign Complementary Social Security Schemes**

#### **Article 103**

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#### Contributions to foreign complementary social security schemes

1. Transfers related to the payment of contributions to foreign complementary social security schemes shall be subject to the authorization of the Bank of Mozambique, against presentation of a favorable opinion issued by the Inspector-General of Insurance.
2. The decision of the Bank of Mozambique shall take into account, amongst other criteria, the availability of foreign currency, the macroeconomic situation of the country, and conditions on the Forex market.

## SECTION II

### Other foreign exchange operations not subject to authorisation

#### Article 104

(Physical entry and exit of foreign notes and coins)

1. The physical entry and exit of foreign notes and coins into or out of the national territory, shall be limited to an amount equivalent to USD 5.000,00 (five thousand United States Dollars), and shall not require any declaration.
2. The exit of cash resulting from the winnings of games of chance and luck, on the terms set out in sub-article 4 of Article 112 of these Regulations, shall constitute an exception to the limit imposed by the previous sub-article.

#### Article 105

(Physical entry and exit of national notes and coins)

1. For the purposes of forex registration, the physical entry and exit of national notes and coins in an amount exceeding Mt 10.000,00 (ten thousand Meticais) shall be declared.
2. The declaration shall be issued by way of the completion, in duplicate, of a standard form, provided by the customs authorities, and the traveller shall keep the second copy thereof.
3. The customs authority referred to in the previous paragraph shall, on a quarterly basis, send the information collected regarding the entry and exit of national currency to the Bank of Mozambique.

## CHAPTER VI

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### **Special foreign exchange rules**

## **SECTION I**

### **Foreign exchange in border zones**

#### Article 106

(Forex trading in accordance with special rules, in border zones)

In the context of forex trading in border zones, entities which do not comply with the requirements set out in legislation applicable to credit and financial institutions, but which meet the minimum conditions, and request due authorization, in terms of these Regulations, shall be permitted to undertake forex trading in accordance with special rules.

#### Article 107

(Minimum conditions for forex trading, in accordance with special rules, in border zones)

The following are the minimum conditions for forex trading in accordance with special rules, in border zones, in terms of this section:

- a) To have a domicile address in the border zone in which the activity is intended to be conducted;
- b) To have a source of income which is capable of supporting the commencement of forex trading activities;
- c) To have a good reference from the local administrative authority, which shall confirm, in particular, the following information:
  - (i) Good standing;
  - (ii) Capacity to ensure, for himself, or for a third party, the provision of obligatory information regarding activities, to the competent authorities;
  - (iii) The possession of premises at which forex trading may be conducted;
  - (iv) To obtain the necessary authorization from the Bank of Mozambique, which shall determine the terms on which the activity may be conducted.

#### Article 108

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(Applications for authorization)

1. For the purposes of the authorization referred to in the previous paragraph, interested entities shall submit the respective application to the Bank of Mozambique, substantiated by the following documents:
  - a) The applicant's identification document;
  - b) An application form, duly completed;
  - c) A declaration of residence, issued by the District Administrative Authority.
2. The declaration referred to in line c) of the previous paragraph shall certify the following:
  - a) the residential address of the applicant;
  - b) the good standing of the applicant;
  - c) the performance, by the applicant, of an activity which allows him to obtain resources which can sustain his forex trade;
  - d) that the applicant has at his disposal premises at which he can perform forex trading activities.
3. The applications for authorization referred to in this Article shall be submitted to the District Administration of the border zone in which the activity is intended to be conducted, and shall be sent by such Administration to the Branch of Agency of the Bank of Mozambique which supervises the territorial area of the District.
4. The authorization shall be granted by way of the issuing of an annual licence, which may be renewed.

Article 109

(Duty to provide information)

Those entities authorised to trade in forex in terms of this section, shall be obliged to provide the Bank of Mozambique with a six-monthly report on transactions performed, on the standard form provided by the Bank of Mozambique, and shall, for this purpose, comply with the procedures set out in the previous Article.

**SECTION II**

**Transfers of Winnings**

Article 110

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(Scope)

1. The provisions of this section are applicable to offshore transfers of winnings resulting from the playing of games of chance or luck, or of social entertainment, by non-resident players, at locations authorised by the competent authority, in terms of the law.
2. Partial forex trading related to, or for the purposes of, the transfers referred to in the previous paragraph, is also regulated by the provisions of this section.

Article 111

(Transferability)

Income resulting from the playing of games of chance or luck, or of social entertainment, referred to in the previous Article, is transferable offshore, provided that the requirements and the procedures set out in these Regulations and in other applicable legislation have been met and observed.

Article 112

(General requirements for the transfer of winnings)

1. Without detracting from the provisions of the following Article regarding winnings resulting from games played by non-resident players, exclusively or partially in foreign currency - the offshore transfer of winnings from games of chance or luck or of social entertainment by non-residents shall be effected by way of the issuing of the competent Certificate of Game Winnings, referred to in abbreviation as a CGW.
2. The exit at the country's border posts of an amount flowing from the winnings of games of chance or luck, or of social entertainment, which does not exceed a limit equivalent to USD 5,000.00 (five thousand United States Dollars) shall not require authorization in terms of these Regulations.
3. The exit through the country's border posts of winnings from games of luck or chance, or of social entertainment, of cash amounts exceeding the equivalent of USD 5,000.00 (five thousand United States Dollars), or of any amount when sent via a bank, shall be subject to authorization, on the terms set out in Articles 115 and 116.

Article 113

(Winnings from games played in foreign currency)

1. The entity running the game shall issue the respective "Certificate of Game Winnings", in the format approved by the Inspector-General of Games after

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consulting the Bank of Mozambique, to a non-resident player who performs forex operations and spends only foreign currency for the purposes of playing games of chance or luck, and who has gained winnings.

2. The certificate referred to in the previous paragraph, when duly confirmed by the Inspector-General of Games, shall serve as justification for the purposes of authorising the offshore transfer of the respective winnings.
3. Amounts to be transferred resulting from game winnings referred to in the previous paragraphs, shall not be subject to any limits, provided that these are duly documented and ratified by the Inspector-General of Games.
4. Any foreign currency which is lawful tender in its country of origin, and freely convertible, presented to the entities conducting games of luck or chance for the purposes of betting, may be converted to the indexed currency in the unit of the game utilised at the gaming entity in question, in the form of chips or credits.
5. Prizes won through the betting referred to in the previous paragraph, may be paid up until a limit of the amount with which the player had acquired game chips or credit, and the remainder in the indexed currency of the game unit, and the player shall not have a right to demand payment of the entire prize in the currency in which he acquired the chips.

#### Article 114

##### (Special registration)

1. Special registration, for the purposes of the transfer of winnings from games of chance or luck, or social entertainment, shall be effected by way of the issuing of the competent Certificate of Game Winnings.
2. The Certificate of Game Winnings shall be issued by the entity which runs the game, on the standard form approved by the Inspector-General of Games after consulting the Bank of Mozambique.
3. The Certificate of Game Winnings shall be dated and signed by the cashier, by the room manager, and by the director of the entity running the games at which the amount which is the object of the certificate had been won, and shall contain the identification of the game player, the amount won, and the manner of payment, as set out in the standard form referred to in the previous paragraph.
4. The beneficiary shall declare, on the Certificate of Game Winnings, that he is not resident in Mozambique, and indicate the number, date, place and issuing entity of his entry visa, and the respective passport, and his nationality.

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#### Article 115

(Authorization for physical transfer or exit)

1. Authorization for the offshore transfer of the amount won shall be granted by the Inspector-General of Games, by way of the affixing, to the Certificate of Game Winnings, of the signature of the Inspector in office, and the stamp in use at the Office of the Inspectorate at the game running entity.
2. The effecting of the transfer of physical exit shall be dependent on the presentation, by the game player, to the competent entities, of the CGW issued in terms of the previous paragraph.

#### Article 116

(Distribution of Certificate of Game Winnings)

The Certificate of Game Winnings shall be issued in quadruplicate, and be distributed as follows:

- a) The original, to the player who is the beneficiary of the transfer;
- b) A second copy, to be presented to the customs entity at the country's exit border post, in the case of cash amounts, or to be presented to the bank of the game organising entity, in the case of a bank transfer;
- c) A third copy, to the Inspector-General of Games; and
- d) A fourth copy, to the game organising entity, which issued the certificate.

#### Article 117

(Conversion of foreign currency prizes, into national currency)

Non-resident players shall be entitled to convert prizes won in foreign currency, into national currency.

#### Article 118

(Transfer mechanisms)

The payment of game winnings permitted or authorised in terms of these Regulations, may be effected in cash, by way of bank transfer, or by way of any other payment method, including the charging of bank cards.

#### Article 119

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(Partial forex trading within the ambit of organising games)

1. Entities which run games of chance or luck, or social entertainment, may undertake partial forex trading, related to gaming activities, by way of the establishment of a specific service, with the necessary authorization of the Bank of Mozambique.
2. Entities which run games, when they do not have a specific service for the conducting of trade in forex, may perform forex operations related to gaming operations, at their purchasing cashiers.
3. The entities referred to in the previous sub-article may not undertake forex trading when this is not related to their activities.

#### Article 120

(Provision of forex information, and monitoring)

1. The game running entity must provide the Bank of Mozambique with forex information, and such clarification as may be requested regarding these matters.
2. The Bank of Mozambique may conduct inspections of game running entities, as regards matters under its responsibility, in its capacity as exchange authority and supervisor of the financial system.
3. For the purposes of the provisions of the previous paragraph, game running entities shall, in particular, retain a file of documents relating to the game winnings of non-resident players which are the object of the issuing of a Certificate of Game Winnings.

#### Article 121

(Supplementary Rules)

The general legal framework for forex operations, in terms of the Foreign Exchange Law, shall be applicable to everything which is not specifically provided for in this section.

### **SECTION III**

#### **Stock Exchange Operations**

#### Article 122

(Scope)



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1. The provisions of this section shall be applicable to procedures for investments, capital transfers, interest, dividends and other income related to stock transactions listed for trading on the Mozambican Stock Exchange, by non-resident entities.
2. Forex operations relating to securities issued by national entities, listed on the Mozambican Stock Exchange and traded on foreign capital markets, as well as securities issued by foreign entities listed on the respective Stock Exchanges and on the National Stock Exchange, when traded in Mozambique, are also governed by the provisions of this section.

#### Article 123

(Stock exchange operations effected by non-resident entities)

1. The making of investments by non-resident entities in securities admitted to trading on the Mozambican Stock Exchange, is authorised.
2. The operations referred to in the previous sub-article shall be made by way of a financial broker, authorised to perform the activities of a financial securities broker, hereinafter referred to as an authorised broker.

#### Article 124

(Transfer of invested funds, and respective returns)

The offshore transfer of invested funds, interest, dividends and other returns resulting therefrom, in terms of these Regulations, shall be effected through a bank authorised to operate in the country, provided that:

- a) The non-resident entity presents, to its authorised broker, documentary proof of the entry of funds into the country, by way of transfer;
- b) The non-resident entity has made the payment of tax obligations, and has complied with other legal charges levied on generated returns.

#### Article 125

(Operations related to foreign securities traded on the Mozambican Stock Exchange)

The legal framework for capital portfolio investment operations relating to foreign securities and other capital portfolio investment operations traded on the Mozambican Money and Capital Markets, set out in Article 93 of these Regulations, shall be applicable, with the necessary adaptations, and in addition to the rules contained in this Section, to forex operations related to foreign securities traded on the Mozambican Stock Exchange, on legally permitted terms,

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#### Article 126

(Operations related to securities listed on the Mozambican Stock Exchange, traded offshore)

The legal framework for capital portfolio investment operations, relating to securities and other national instruments, traded on foreign money and capital markets, set out in Article 91 of these Regulations, shall be applicable, with the necessary adaptations, to forex operations relating to securities listed on the Mozambican Stock Exchange and traded offshore, on legally permitted terms.

#### Article 127

(Duty of verification)

1. Authorised brokers, and other involved entities, shall ensure compliance with applicable legislation in force, prior to performing any requested operation.
2. Authorised entities shall have a special duty to verify all material and formal requirements inherent to operations effected within the scope of these Regulations.
3. For the purposes of the provisions of the previous sub-articles, a non-resident entity must provide, to its authorised broker, all evidentiary information necessary for the correct performance of the operation, when requested.

#### Article 128

(Duty of information)

1. Authorised brokers must inform the Bank of Mozambique, within a period of forty eight hours, of all occurrences of operations effected within the scope of these Regulations.
2. Authorised brokers shall be obliged to create an archive containing all information related to the operations which they effect for the account of non-resident entities, in terms of the legislation in force.

### **SECTION IV**

#### **Other special foreign exchange regimes**

#### Article 129

(Other special cases governed by their own regulations)

1. The following special cases shall be governed by their own regulations, and subsidiarily, by these Regulations:

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- a) Remittances by Mozambican emigrants;
- b) Forex operations effected in industrial free zones;
- c) Forex operations effected in special economic zones;
- d) Forex operations, within the scope of accords or concession agreements concluded by the Mozambican State;
- e) Other situations defined in special legislation.

## **CHAPTER VII**

### **Final provisions**

#### Article 131

(Sanctions and instructions)

1. A violation of the provisions contained in these Regulations shall be punishable in terms of Articles 10 and following of the Foreign Exchange Law.
2. The Bank of Mozambique shall be responsible for issuing such rules and instructions as may be necessary for the adequate execution and putting into operation of these Regulations.