

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 32 OF 2013

The Bank of Zambia Act
(Laws, Volume 20, Cap. 360)

**The Bank of Zambia (Monitoring of Balance of Payments)
Regulations, 2013**

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IN EXERCISE of the powers contained in section *fifty-seven* of the Bank of Zambia Act, the following Regulations are hereby made:

Title and
commence-
ment

1. (1) These Regulations may be cited as the Bank of Zambia (Monitoring of Balance of Payments) Regulations, 2013.

(2) These Regulations shall come into effect on 16th May, 2013.

Interpreta-
tion

2. In these Regulations, unless the context otherwise requires—
“Bank ” means the Bank of Zambia established under section *three* of the Act;

Act No 46
of 2010

“Centre ” means the Financial Intelligence Centre established under the Financial Intelligence Centre Act, 2010;

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“Commissioner-General ” means the person appointed as such under section *nineteen* of the Zambia Revenue Authority Act;

“credit rating agency ” means a company that assigns credit ratings for issuers of debt obligations or debt instruments;

“export proceeds ” means the monetary consideration paid or payable to an exporter in respect of goods or services exported from the Republic;

“exporter ” means a person who is entitled to receive a payment in foreign currency from outside Zambia in respect of goods or services exported from Zambia;

“financial service provider ” means a financial service provider authorised to provide foreign exchange denominated accounts and licenced under the Banking and Financial Services Act;

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“foreign bank account ” means a bank account held in a bank registered and licensed in a jurisdiction outside the Republic;

“foreign exchange ” includes—

(a) banknotes and coins, other than the currency of Zambia, which are legal tender outside Zambia;

(b) a unit of account of an international body to which Zambia is a member;

(c) any financial instrument denominated in a currency other than that of Zambia;

(d) any right to receive foreign bank notes or coins in respect of any balance at a financial service provider located within or outside Zambia; and

(e) foreign currency denominated travellers cheques, credit and debit cards and similar modes of foreign currency payment;

“ importer ” means any person in Zambia who by reason of goods or services supplied or to be supplied from outside Zambia is under an obligation to make a foreign currency payment to a person outside Zambia in respect of the goods or services;

“ inflows ” means capital, current or financial account flows of money from a jurisdiction outside the Republic to a person present in Zambia;

“ international transaction ” means the buying or selling, offering to buy or sell, goods or services to or by a person who is not resident in the Republic;

“ outflows ” means capital, current or financial account flows of money to a jurisdiction outside the Republic from a person present in Zambia; and

“ person ” means an individual, a company, a partnership, an association and any group of persons acting in concert, whether or not incorporated.

3. These Regulations apply to—

(a) a financial service provider licensed under the Banking and Financial Services Act;

(b) an importer of goods or services exceeding ten thousand United States dollars or the equivalent in foreign currency;

(c) an exporter of goods or services exceeding ten thousand United States dollars or the equivalent in foreign currency;

(d) a financial service provider designated under the National Payment Systems Act, 2007; and

(e) any transfer or receipt of money in foreign currency into or out of Zambia exceeding five thousand United States dollars or equivalent in foreign currency.

Application

Cap 387

Act No. 1 of 2007

4. (1) The Bank of Zambia shall, in relation to outflows, monitor—

(a) the value of any imported goods;

(b) the value of any imported services, including management services;

(c) any amounts remitted out of Zambia whether unrequited (gratuitous) or otherwise;

(d) the amounts, if any, deposited abroad but generated by a person resident in Zambia from the supply of goods produced or services rendered in Zambia;

Monitored transactions

- (e) loans granted to non-residents;
 - (f) trade credits from nonresidents;
 - (g) investments made in the form of equity outside Zambia by persons resident in Zambia; and
 - (h) investments made in the form of debt securities outside Zambia by persons resident in Zambia.
- (2) The Bank of Zambia shall, in relation to inflows, monitor—
- (a) the value of any goods or services exported out of Zambia;
 - (b) profits or dividends received in respect of investments abroad;
 - (c) borrowings from non-residents;
 - (d) trade credits to non-residents;
 - (e) investments in the form of equity from abroad;
 - (f) investments in the form of debt securities from abroad; and
 - (g) receipts of both principal and interest on loans to non-residents.
- (3) The Bank of Zambia shall, in relation to international transactions, monitor—
- (a) the value of imported or exported manufacturing services or goods to or from non-residents;
 - (b) the net cost effect of telecommunication services;
 - (c) the value of international transport, courier and postal services;
 - (d) the value of accommodation and other hospitality services to or from nonresidents; and
 - (e) international money transfers into and out of Zambia.

Electronic reporting system

5. (1) The Bank shall establish an electronic reporting and monitoring system for purposes of these Regulations.

(2) The electronic reporting and monitoring system referred to in sub-regulation (1) may have linkages with other Government agencies or institutions responsible for the collection of revenue and the administration of import and export formalities.

Foreign accounts for exporters, importers and foreign investors

6. (1) An exporter, importer or foreign investor shall open and maintain a foreign currency denominated account with a financial service provider for the purposes of these Regulations.

Act No. 11 of 2006

(2) A foreign investor who acquires incentives under the Zambia Development Agency Act, 2006, shall deposit the pledged capital into the account referred to in sub-regulation (1).

(3) An exporter shall, within sixty days of the date of shipment of any goods, remit the proceeds of the exports into the account referred to in sub-regulation (1).

7. Notwithstanding the Control of Goods Act, an exporter shall, for any proposed export, complete the export proceeds monitoring form in Form I set out in the Schedule.

Export
declaration
Cap. 421

8. (1) A person who makes a foreign exchange remittance for the payment of imported goods or services, in case of—

Notification
of
remittances
above
prescribed
thresholds

(a) an account holder, in excess of ten thousand United States dollars or the equivalent in any foreign currency; or

(b) a non-account holder, in excess of five thousand United States dollars;

shall submit to a financial service provider the import and remittance monitoring form in Form II set out in the Schedule.

(2) An importer or exporter who remits foreign exchange through a financial service provider in accordance with sub-regulation (1) shall, by way of acquittal, provide the financial service provider with customs clearance of the imported goods or evidence of provision of the relevant services before the remission of funds, within sixty days from the date of the transfer of the funds.

(3) The Minister may, in consultation with the Bank, extend the period within which an acquittal under sub-regulation (2) may be made.

9. An importer or exporter shall ensure that payment for an import or export exceeding in value the sum of—

Mode of
payment for
certain
imports or
exports

(a) ten thousand United States dollars or the equivalent in any foreign currency, is made by means of electronic transfer of funds; and

(b) one hundred thousand United States dollars or the equivalent in any foreign currency, is made by way of irrevocable letter of credit issued or confirmed by a bank with a rating of at least B+ or equivalent from one of the leading three internationally recognised credit rating agencies.

10. A financial service provider shall, for any import or export on which a declaration is made under regulation 7 or 8, notify the Bank by periodic return of the import and export proceeds received into the importer's or exporter's account.

Notification
of receipt of
import or
export
proceeds

Transaction of payment of dividends, royalties, management fees, etc.

11. (1) The following payments to a foreign bank account or non-resident person shall be processed through a financial service provider:

- (a) dividends;
- (b) royalties;
- (c) management fees;
- (d) technical fees;
- (e) commissions;
- (f) consultancy fees; and
- (g) imports exceeding in value the amount of one hundred thousand United States dollars or the equivalent in any foreign currency.

(2) A person making any payment referred to in sub-regulation (1) shall submit the following documents to the financial service provider:

- (a) for dividends in foreign exchange—
 - (i) a board resolution of the declaration of the dividend;
 - (ii) a tax clearance certificate issued by the Zambia Revenue Authority in the name of the business paying the dividends;
 - (iii) evidence of payment of applicable taxes on the dividends concerned;
 - (iv) evidence of payment of corporate or income tax;
 - (v) where tax is zero-rated, whether under the provisions of any written law or agreement, or where withholding tax is exempt, a withholding tax exemption letter or dispensation in the nature of a “limited deduction direction” issued under the hand of the Commissioner-General; and
 - (vi) audited accounts certified by an accountant registered with the Zambia Institute of Chartered Accountants;
- (b) for royalties, management fees, technical fees, commissions or consultancy fees in foreign exchange—
 - (i) a tax clearance certificate;
 - (ii) an invoice in the name of the declared recipient of the funds
 - (iii) the agreement governing the payment of royalties or management fees;

- (iv) where tax is zero-rated or withholding tax is exempt, a withholding tax exemption letter or dispensation in the nature of a “limited deduction direction” issued under the hand of the Commissioner-General;
 - (v) payment details at a bank outside Zambia in the recipient’s name;
 - (vi) evidence of payment of applicable taxes; and
 - (vii) management or audited accounts certified by an accountant registered with the Zambia Institute of Chartered Accountants; and
- (c) for imports, including those eligible for capital allowance under the Income Tax Act, exceeding in value the amount of one hundred thousand United States dollars or the equivalent in any foreign currency, an invoice or invoices in the name of the declared recipient of funds.

Cap. 323

12. (1) A person who obtains any foreign exchange loan or letter of credit from a non-resident lender shall report the borrowing to the Bank.

External
private debt

(2) The report referred to in sub-regulation (1) shall be supported by—

- (a) a repayment schedule; and
- (b) in the case of any existing or proposed debt service remittance obligation, proof of a signed facility or loan agreement between the borrower and the lender.

(3) A subsidiary to a foreign company which contracts a foreign exchange denominated loan obligation from the parent company, shareholder, partner or affiliated entity shall provide to a financial service provider a signed facility, loan or similar agreement and shall disclose—

- (a) the rate of interest on the loan;
- (b) the tenure of the loan;
- (c) the repayment schedule.

(4) A person who contracts a private external debt shall register the obligation with a financial service provider, and the financial service provider shall register the debt with the Bank.

(5) A financial service provider shall, with respect to any external private debt contracted after the coming into force of these Regulations, only facilitate a debt service remittance if the debt is registered in accordance with this regulation.

Record of
loan
agreements

13. (1) The Bank shall maintain an electronic depository of loan agreements in respect of externally contracted debt and shall assign a unique identification number to each loan agreement.

(2) The Bank shall only register or assign a unique identification number to each transaction if—

(a) the borrower provides evidence of the receipt of the loan amount in a bank account hosted by a financial service provider and held in the name of the borrower;

(b) in the case of a letter of credit, the borrower provides evidence of the application of the proceeds of the letter of credit in settlement of payment obligations for the contracted goods or services; or

(c) the borrower provides evidence of the importation and physical delivery into the Republic of the goods constituting the loan amount or partial payment, or in the case of services, the delivery of the services.

(3) The letter of credit referred to in paragraph (b) of sub-regulation (2) shall be issued or confirmed by a bank with a rating of at least B+ or equivalent from one of the leading three internationally recognised credit rating agencies.

(4) A person who contracted a private external debt before the coming into operation of these Regulations shall provide the information referred to in sub-regulations (2) and (3) of regulation 12 to facilitate the registration of the debt in accordance with these Regulations.

Limitation of
certain
foreign
currency
transactions

14. (1) A financial service provider shall not facilitate over-the-counter cash withdrawals by the same person or for the benefit of that person in excess of five thousand United States dollars per day or the equivalent in any foreign currency in the case of an account holder or one thousand United States dollars in the case of a non-account holder.

(2) A foreign exchange bureau or money remittance service provider shall not facilitate an outward foreign currency transaction or remittance by the same person or for the benefit of that person exceeding one thousand United States dollars per day or a total of five thousand United States dollars per month.

(3) This regulation shall not apply to deposits of foreign currency or inward foreign currency remittances.

Returns

15. A financial service provider shall, at such intervals as the Bank may determine, submit to the Bank a report of—

- (a) all remittances of foreign exchange into and out of the Republic as provided under these Regulations;
- (b) all withdrawals, by debit or credit card, of cash or payment for goods or services in foreign currency in any thirty day period; and
- (c) any transfers by a person within any thirty-day period from a foreign currency account in Zambia to a foreign currency account held by that person abroad.

16. These Regulations do not exempt a financial service provider from the financial service provider's obligations under the Financial Intelligence Centre Act, 2010, the Prohibition and Prevention of Money Laundering Act, 2001, or any other written law relating to money laundering and proceeds of crime.

Applicability of anti-money laundering measures
Act No. 46 of 2010
Act No. 14 of 2001

17. (1) A person who contravenes any provision of these Regulations commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a period not exceeding ten years, or to both.

General offence and penalty

(2) Where an offence under these Regulations is committed by a body corporate or an unincorporate body, every director or manager of the corporate or unincorporate body is liable, upon conviction, as if the director or manager had personally committed the offence, unless the director or manager proves to the satisfaction of the court that the act constituting the offence was done without the knowledge, consent or connivance of the director or manager or that the director or manager took reasonable steps to prevent the commission of the offence.

SCHEDULE

Form I
(Regulation 7)

THE BANK OF ZAMBIA (MONITORING OF BALANCE OF PAYMENTS TRANSACTIONS)

REGULATION, 2013

EXPORT MONITORING FORM

Exporter Name and Address		TPIN	
		Invoice No. and Date	
Destination Country		Paying Bank (when applicable)	
Currency		Payment details	
Transfer amount in figures		Transfer amount in words	
Payment details			
Message to beneficiary			
Account to debit for transfer		Account to debit for charges	
Name of Local Commercial Bank	Name of Branch	Place of Exit	
Above \$100,000 Mode of Payment Letter of credit	Confirming Bank	\$100,000 and below Mode of Payment Telegraphic Transfer (TT)	
Signature of Bank Official	Date	Country of Final Destination	
Stamp of Commercial Bank			
<i>Description of Exported Goods</i>	<i>Grade</i>	<i>Weight</i>	<i>Transaction Value (Euro, USD, /GBP, Rand)</i>
Copper			
Cobalt			
Gold			
Other metals ()			
Non-metal export ()			

DECLARATION	
I/We Exporter hereby declare(s) that the foreign currency proceeds of the sale or disposal of the goods described above have been/will be received in the Republic of Zambia from a person outside the Republic of Zambia within sixty days from the date of shipment and will be deposited in our bank and account number as indicated above.	
I do hereby declare that the information give above is true and correct to the best of my knowledge and belief.	
Date of signature	
Name of Authorised Signatory (Importer) (Exporter) (CEO or CFO)	
Official Use Only	
Time application received	Date
Received by	Signature
Signature(s) verified	Account balance
Not verified	
Checked for corrections and completeness	
Approved	Not Approved
Signature	Signature
Date	Date



Form II
(Regulation 8)

THE BANK OF ZAMBIA (MONITORING OF BALANCE OF PAYMENTS TRANSACTIONS)

REGULATION, 2013

IMPORT MONITORING FORM

Importer or Remitter's Names and Address		TPIN	
		Invoice No. and Date	
Beneficiary Name and Address		Beneficiary Bank Details (Address and SWIFT code)	
Account Name	Account Number	Date of Remittance	
Name of Local Commercial Bank	Name of Branch	Imported Goods point of entry (if applicable)	
Name of Bank Official	Signature of Bank Official	Date of Goods/Services Entry	
Stamp of Commercial Bank			
<i>Purpose of Remittance</i>	<i>Type</i>	<i>Currency</i>	<i>Total Value</i>
Goods Importation			
Dividends			
Loan Repayment			
Education			
Fees			
Other			
<p>ATTESTATION</p> <p>I/We..... (Importer or Remitter) hereby declares that the foreign currency funds sent abroad will have corresponding prescribed genuine support and original documents or forms availed by myself to the above indicated local Commercial bank Before funds are remitted. In case of goods importation, I Attest that relevant Acquittal documents (eg Customs Clearance forms) will be availed to the local Commercial bank indicated above within 60 days from the date of remittance.</p>			
Name of Authorised Signatory (CEO and/or CFO)			
Signature of Importer/Remitter Authorised Employee			
Place and Date of Signature			

LUSAKA

29th April, 2013

[MFAL.102/9/3]

A. B. CHIKWANDA,
Minister of Finance

