

GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 55 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 <i>fifty-seven</i> of the Bank of Zambia Act, the following Regulations are hereby made:
Title and commencement	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 1 st July, 2013.
Interpretation	2. In these Regulations, unless the context otherwise requires— “Bank” means the Bank of Zambia established under section <i>three</i> of the Act; “Centre” means the Financial Intelligence Centre established under the Financial Intelligence Centre Act, 2010; “commercial bank” means a bank licenced under section <i>four</i> of the Banking and Financial Services Act; “Commissioner-General” means the person appointed as such under section <i>nineteen</i> of the Zambia Revenue Authority Act; “export proceeds” means the monetary consideration paid or payable to an exporter in respect of goods or services exported from the Republic; “exported manufacturing services” means any work done in the Republic by a person resident in the Republic for an owner of goods resident outside the Republic, and includes assembling, labelling, packaging, processing and repair services; “exporter” means a person who is entitled to receive a payment in foreign currency from outside the Republic in respect of goods or services exported from the Republic; “financial service provider” means a financial service provider licenced under the Banking and Financial Services Act; “foreign bank account” means a bank account held in a bank registered and licensed in a jurisdiction outside the Republic; “foreign currency denominated account” means a bank account provided to a person in the Republic by a commercial bank and denominated in a currency other than the currency of the Republic; “foreign exchange” includes (a) banknotes and coins, other than the currency of the Republic, which are legal tender outside the Republic;
Act No 46 of 2010	
Cap. 387	
Cap. 321	
Cap. 387	

- (b) a unit of account of an international body to which the Republic is a member;
- (c) any financial instrument denominated in a currency other than that of the Republic;
- (d) any right to receive foreign bank notes or coins in respect of any balance at a financial service provider located within or outside the Republic; and
- (e) foreign currency denominated travellers cheques, credit and debit cards and similar modes of foreign currency payment;

“foreign investor” has the meaning assigned to it in the Zambia Development Agency Act, 2006;

Act No. 11 of
2006

“imported manufacturing services” means any work done outside the Republic by a person resident outside the Republic for an owner of goods resident in the Republic, and includes assembling, labelling, packaging, processing and repair services;

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

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

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

“limited deduction direction” means a certificate, issued by the Commissioner-General to give effect to the provisions of a Double Taxation Agreement entered pursuant to the Income Tax Act;

Cap. 323

“money remittance service provider” means a payment system business providing money transfer or transmission services and designated under the National Payment Systems Act, 2007;

Act No. 1 of
2006

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

- present in the Republic;
- “person” means an individual, a company, a partnership, an association and any group of persons acting in concert, whether or not incorporated;
- “Zambia Development Agency” means the Zambia Development Agency established under section *four* of the Zambia Development Agency Act, 2006; and
- “Zambia Revenue Authority means the Zambia Revenue Authority established under section *nine* of the Zambia Revenue Authority Act.
- Act No. 11 of 2006
Cap. 321
Application
3. These Regulations apply to—
- (a) a financial service provider;
- (b) a payment system provider designated under section *seven* of the National Payment Systems Act, 2007;
- (c) an import of goods or services exceeding twenty thousand United States dollars per transaction, or the equivalent in foreign currency;
- (d) an export of goods or services exceeding twenty thousand United States dollars per transaction, or the equivalent in foreign currency;
- (e) a foreign investor; and
- (f) a local investor who invests outside the Republic.
- Act No. 1 of 2007
Monitored transactions
4. (1) The Bank shall, in relation to outflows, monitor—
- (a) the value of any imported goods;
- (b) profits or dividends paid to non-residents in respect of investments made in the Republic;
- (c) the value of any imported services, including management services;
- (d) any amounts remitted out of the Republic whether unrequited (gratuitous) or otherwise;
- (e) loans granted to non-residents;
- (f) trade credits from non-residents;
- (g) investments made in the form of equity outside the Republic by persons resident in the Republic;
- (h) investments made in the form of debt securities outside the Republic by persons resident in the Republic; and
- (i) payment of interest or principal or an instalment thereof on private external debt.

(2) The Bank shall, in relation to inflows, monitor—

- (a) the value of any goods or services exported out of the Republic;
- (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 shall, in relation to international transactions, monitor—

- (a) the value of imported manufacturing services 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 non-residents; and
- (e) international money transfers into and out of the Republic.

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

Electronic reporting system

(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.

6. (1) An exporter or foreign investor shall open and maintain a foreign currency denominated account with a commercial bank for the purposes of these Regulations.

Foreign currency accounts for exporters and foreign investors

(2) A foreign investor shall —

- (a) deposit the cash component of the pledged investment into the foreign currency denominated account, referred to in sub-regulation (1), within the period stated in the

	<p>investment certificate and acquit the deposited amount to the Bank;</p> <p>(b) upon provision of the pledged capital equipment, acquit the pledged capital equipment to the Bank by producing documentation indicating the monetary equivalent thereof; and</p> <p>(c) upon provision of any other pledged non-cash component, acquit the monetary equivalent thereof to the Bank.</p>
Export declaration Cap. 421	<p>7. (1) 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.</p> <p>(2) An exporter shall notify the commercial bank at which the exporter maintains a foreign currency denominated account, of the receipt of export proceeds within one hundred and twenty days from the date of receipt of the export proceeds.</p>
Notification of remittances above prescribed thresholds	<p>8. (1) An importer shall, for any proposed import of goods or services, complete and submit to a commercial bank the import monitoring form in Form II set out in the Schedule.</p> <p>(2) An importer who remits foreign exchange through a commercial bank in accordance with sub-regulation (1) shall, by way of acquittal, provide the commercial bank with customs clearance of the imported goods or evidence of provision of the relevant services before the remission of funds, within one hundred and twenty days from the date of the transfer of the funds.</p> <p>(3) The Bank may, on application by an importer, extend the period within which the importer may make an acquittal under sub-regulation (2).</p> <p>(4) Where an importer fails to acquit an import transaction through a commercial bank in accordance with sub-regulation (2), the commercial bank shall not facilitate any further remittance of funds by the importer.</p>
Notification of import or export transactions	<p>9. A commercial bank shall, for any import or export in respect of which a declaration is made under regulation 7 or 8, notify the Bank by filing a return in Form III set out in the Schedule.</p>
Mode of payment for certain imports or exports	<p>10. Notwithstanding regulation 3, an importer or exporter shall ensure that payment for an import or export is as follows:</p> <p>(a) for all imports, in value of, or in excess of, five thousand United States dollars or the equivalent in any other foreign currency, by means of electronic transfer of funds;</p>

- (b) for all non-credit payments for exports in value of, or in excess of, five thousand United States dollars or the equivalent in any foreign currency, by means of electronic transfer of funds; and
- (c) for an export on credit terms in value of, or in excess of, two hundred thousand United States dollars or the equivalent in any foreign currency, by letter of credit issued by a bank outside the Republic or confirmed by a commercial bank.

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

Payments to
foreign bank
account

- (a) dividends;
- (b) royalties;
- (c) management fees;
- (d) technical fees;
- (e) commissions;
- (f) consultancy fees;
- (g) government securities maturities; and
- (h) other related transactions.

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

- (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, where applicable;
 - (iv) evidence of payment of corporate or income tax, where applicable;
 - (v) where tax is zero percent or at a reduced rate, 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) management or 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 percent or at a reduced rate 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 the Republic in the recipient’s name;
 - (vi) evidence of payment of applicable taxes; and
 - (vii) management or audited accounts certified by an external auditor registered with the Zambia Institute of Chartered Accountants; and
- (c) for a foreign investor in Government securities—
 - (i) a copy of the application form to invest in Government securities;
 - (ii) a copy of the award notice;
 - (iii) evidence of the inward funds transfer for the investment; and
 - (iv) the maturity payment voucher.

External
private debt

12. (1) A person who obtains a foreign exchange loan from a non-resident lender or who provides a loan to a non-resident borrower shall register with the Bank, through a commercial bank, the borrowing or the lending in Form III set out in the Schedule.

(2) A subsidiary of a foreign company which contracts a foreign exchange denominated loan from a parent company, shareholder, partner or affiliated entity or a local parent company which provides a loan to a foreign subsidiary, shareholder, partner or its foreign affiliated company, shall provide to a commercial bank a signed facility, loan or similar agreement and shall in each case disclose—

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

(3) A commercial bank shall, with respect to an external private debt or lending to a non-resident, facilitate outward or inward debt service remittances if—

- (a) the debt is registered in accordance with this regulation; and
- (b) in the case of an outward debt service remittance, proof of payment of applicable taxes on the interest component is produced.

(4) Sub-regulation (1) does not apply to loans for a period of less than thirty days.

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.

Record of loan agreements

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

- (a) the borrower or lender provides evidence of the receipt or remittance of the loan amount into or out of a bank account hosted by a commercial bank and held in the name of, or for the benefit of the borrower or lender;
- (b) 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) A person who contracted a private external debt or provided a loan before the coming into operation of these Regulations shall, within thirty days, 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.

14. A commercial bank or money remittance service provider shall submit a report, on a monthly basis, to the Bank of—

Returns

- (a) all remittances of foreign exchange into and out of the Republic;
- (b) all withdrawals and deposits, by debit or credit card, of cash or payment for goods or services in foreign currency in any thirty-day period;

(c) any transfers by a person within any thirty day period from a foreign currency account in the Republic to any foreign currency account held abroad; and

(d) any private borrowing repayment out of, or private lending receipt into, the Republic.

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

15. 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.

General
offence and
penalty

16. (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.

(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.

Revocation of
SI No. 32 of
2013

17. The Bank of Zambia (Monitoring of Balance of Payments) Regulations, 2013, are hereby revoked.

SCHEDULE
(Regulations 7, 9 and 12)

Form I
(Regulation 7)
Serial Number

BANK OF ZAMBIA
THE BANK OF ZAMBIA (MONITORING OF BALANCE OF PAYMENTS)
REGULATIONS, 2013
EXPORT MONITORING FORM

1. Exporter:	Name						2. TPIN	
	Physical Address						3. Sector	
	Telephone						4. Invoice Number	
	Email						5. Invoice Date	
6. Paying Bank (When Applicable)						7. Value of Exports in words (state currency)		
8. Value of Exports in Figures (state currency)								
9. Name of Local Commercial Bank / Branch								
10. Account Name to Credit for Transfer						11. Port of Exit		
12. Account Number to Credit for Transfer								
13. \$200,000 and above (By Letter of Credit) LC Ref. No. (When Applicable)						14. \$20,000 and above (Electronic Funds Transfer) EFT. No. (When Applicable - advance payments)		
15. Issuing/ Confirming Bank								
16. Country of Final Destination								
17. Description of Goods/Services Exported (for detailed list of exports, fill out additional list attached, where applicable)	Grade	Weight	Package/Container No.	Currency	Unit Price	Transaction Value		
	Copper							
	Cobalt							
	Gold							
	Emeralds							
	Other metals							
Non-traditional exports								
Services (type of service)								
18. Name of Importer								
19. Name of Importer's Representative								
20. 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/ institution outside the Republic of Zambia within one hundred and twenty (120) days from the date of shipment and will be deposited in our bank and account number as indicated on this form. I do hereby declare that the information given above is true and correct to the best of my knowledge and belief. Signature Date and Place of Signature Name of Authorised Signatory								
Official Use Only								
Financial Service Provider/Commercial Bank				Zambia Revenue Authority				
21. Date Application Received				27. Date Application Received				
22. Received By (Name)				28. Name of ZRA official				
23. Application Checked for Corrections and Completeness		Yes	29. Goods to be exported verified		Yes			
		No			No			
24. Signature				30. Signature				
25. Date				31. Date				
26. Stamp of Commercial Bank				32. Stamp of Zambia Revenue Authority				

BANK OF ZAMBIA
THE BANK OF ZAMBIA (MONITORING OF BALANCE OF PAYMENTS) REGULATIONS, 2013
IMPORT REMITTANCE MONITORING FORM (Tick as applicable)

1. Importer or Remitter Details Names _____ Address _____ Telephone _____ Email _____		2. TPIN _____ 3. Sector _____ 4. Tax Clearance Certificate _____ 5. Invoice No./Loan ID No. _____ 6. Invoice Date _____	
7. Beneficiary Name and Address Name _____ Address _____ Country _____ Telephone _____ Email _____		8. Beneficiary Bank: Name _____ Address _____ Country _____ Account Number _____ SWIFT Code _____	
9. Importer/Remitter Account Name _____ 11. Importer/Remitter Account Number _____		10. Date of Remittance _____ 12. Freight and other ancillary charges in figures _____ 13. Currency of Remittance _____ 14. Transfer Amount in Words _____ 15. Transfer Amount in Figures _____ 16. Port of Entry for Imported Goods _____ 17. Name of Local Commercial Bank _____ 18. Branch of Local Commercial Bank _____	
19. Expected Date of Goods Entry /Services Delivery _____			
<i>20. Purpose of Remittance</i>	<i>Description</i>	<i>Currency</i>	<i>Total Value</i>
Goods Importation			
Services Importation			
Dividends			
Loan Repayments			
Education			
Fees, please specify			
Other - please specify			
21. DECLARATION			
I/We (Importer or Remitter) hereby declare(s) that the foreign currency sent abroad has corresponding prescribed documents availed by myself to the indicated local commercial bank. For goods importation, I/we attest that relevant Acquital documents (e.g. Customs Clearance Documents) will be availed to the local commercial bank indicated above within one hundred and twenty (120) days from the date of remittance.			
I do hereby declare that the information given above is true and correct to the best of my knowledge and belief.			
Signature			
Date and Place of Signature			
Name of Authorised Signatory			
Official Use Only			
Financial Service Provider		Zambia Revenue Authority	
22. Date Application Received		29. Date Application Received	
23. Received By (Name)		30. Name of ZRA official	
24. Any Overdue Acquitals	Yes	31. Imported Goods verified to match details on Form	Yes (State value of Goods)
	No		No
25. Application Approved	Yes	32. Relevant Taxes Paid in Full	Yes (State Amount)
(Checked for Corrections and Completeness)	No		
26. Signature		33. ZRA Entry Number	
		34. ZRA Payment Receipt Number	
		35. Signature	
		36. Date	
27. Date		37. Stamp of Zambia Revenue Authority	
28. Stamp of Commercial Bank			

Form III
(Regulations 9 and 12)
Serial Number:.....

BANK OF ZAMBIA
THE BANK OF ZAMBIA (MONITORING OF BALANCE OF PAYMENTS) REGULATIONS, 2013
PRIVATE EXTERNAL BORROWING/LENDING REGISTRATION FORM

1. Applicant's Details		Name		2. TPIN	
		Physical Address		3. Sector	
		Telephone		4. Date of Application	
		Email		5. Nature of Transaction (Borrowing or Lending)	
6. Foreign Lender/Borrower (delete what is not applicable)		Name		7. Foreign Lender/Borrower Bank Name	
		Physical Address		8. Foreign Lender/Borrower Bank Address	
		Telephone		9. Foreign Lender/Borrower Bank SWIFT code	
		Email		10. Foreign Lender/Borrower Bank Account Number	
		Country			
11. Applicant's Account Name				12. Date of Loan Contract	
13. Applicant Account Number				14. Start Date of Loan	
15. Applicant's Local Commercial Bank				16. End Date of Loan	
18. Applicant's Local Commercial Bank Branch				17. Tenor of Loan (months)	
20. Date Funds Transmitted				19. Currency	
				21. Annual Interest Rate	
				22. Loan Amount	
23. Purpose and sector of Loan					
24. Repayments Summary (Attach Repayment Schedule)					
Installment Number	Date of Payment	Interest Amount	Principal Amount	Total Amount	
25. DECLARATION					
I/We.....(Borrower/lender) hereby declare that the information provided herein is true and correct to the best of my/our knowledge. I/we understand that any false declaration may render me/us liable to criminal prosecution.					
Name of Authorised Signatory					
Signature					
Place and Date of Signature					
Official Use Only					
Commercial Bank			Bank of Zambia		
26. Date Received			33. Date Received		
27. Name of Bank Official			34. Name of BoZ Official		
28. Designation			35. Designation		
29. Application Checked for Corrections and Completeness			36. Unique Loan ID Number Allocated		
Yes					
No					
30. Signature:			37. Signature:		
31. Date			38. Date		
32. Commercial Bank Stamp			39. Bank of Zambia Stamp		

LUSAKA

25TH JUNE, 2013

[MFAL.102/9/3]

A.B. CHIKWANDA,
Minister of Finance