

## **Foreign Exchange Law**

**Law No 5/97**

**FOREIGN EXCHANGE LAW NATIONAL LEGISLATIVE ASSEMBLY**

**27 June, 1997**

Considering, due to the reorganization of the financial system it is imperative that norms and principles which have been valid until the present time, be updated, for they have become obsolete, to reconcile the operation of the financial institutions with the current phase of the economic development in the country.

In that sense, the intention of the law aims is to conduct a profound revision of the above mentioned norms, in order to improve the discipline of foreign exchange operations, as well as establish a basic juridical-legal framework to regulate foreign exchange trade in a manner that takes into account the legitimate interests of the State and other economic entities

In those terms, under the provisions of art 88 of the Constitution the National Legislative Assembly approves the following:

### **FOREIGN EXCHANGE LAW**

#### **CHAPTER I**

##### **(General Provisions)**

##### **Article 1**

###### **(Objective)**

The objective of the following charter is to regulate financial and commercial operations which have and effective or potential effect on the balance of payments.

##### **Article 2**

###### **(Scope of application)**

This law and its complementary charters and regulations applies to

a) foreign exchange operations b) trade in foreign exchange

##### **Article 3**

###### **(Foreign exchange authority)**

The National Bank of Angola is the foreign exchange authority in the Republic of Angola. It can delegate power on other entities for specific activities.

##### **Article 4**

###### **(Residency)**

1. For the effects of the current charter, the following are considered residents in the territory of Angola:

- a) individuals that normally reside in the country;
- b) corporations with headquarters in the country;
- c) branches, agencies or any type of representation in the country of foreign corporations;
- d) funds, institutes and public agencies with financial and administrative autonomy, with headquarters in the national territory;
- e) national diplomatic officials, consular representatives or similar in the exercise of their office outside of the country, as well as their family members;
- f) Angolan nationals, living abroad for more than 90 days and less than a year, who are students or are in the exercise of public functions.

2. For the effects of the current charter, the following are considered non-residents:

- a) individuals that normally reside abroad;
- b) corporations with headquarters abroad;
- c) individuals who have been away from the country for more than a year
- d) branches, agencies or any form of representation located abroad of corporations with headquarters in Angola;
- e) diplomatic officials, consular representatives or the like, who are serving in Angola, as well as their family members.

3) The National Bank of Angola may decide in special cases, doubts which may arise as to the quality of resident or non resident of a given entity.

## **CHAPTER II**

### **(Foreign exchange operations)**

#### **Article 5**

##### **(Definition)**

The following are considered foreign exchange operations:

- a) the acquisition or alienation of coined gold, gold bars or any non crafted gold.
- b) the acquisition or alienation of foreign currencies
- c) the opening and operation of checking accounts in foreign currency in the country by non residents
- d) the payment of any transaction in goods, current or capital accounts

#### **Article 6**

##### **(Concept of foreign currency)**

For the effects of this charter and the complementary legislation and regulations, foreign currency is considered to be the legal tender (bills or coins) of the issuing country and

any other means of payment to be made abroad, expressed in the currency or account units that are used in international compensations or payments.

**Article 7**  
**(Mandatory brokerage)**

Foreign exchange operations can only be performed by a financial institution authorized to perform foreign exchange trade.

**Article 8**  
**(Compensation)**

Total or partial payment of goods, current account and capital transactions as compensation for credits or debits derived from identical or different transactions must be authorized by the National Bank of Angola.

**Article 9**  
**(Opening and operation of accounts)**

- 1) Residents as defined for foreign exchange purposes, may open and operate checking accounts in foreign currency at financial institutions with headquarters in the country.
- 2) Resident individuals may open and operate checking accounts in foreign currency at financial institutions with headquarters outside the country
- 3) Non residents as defined for foreign exchange purposes, may open and operate checking accounts in national or foreign currency at financial institutes domiciled in the national territory
- 4) The National Bank of Angola must define the terms and conditions under which residents and non residents may hold accounts as described in paragraphs 1 and 2 of this article.

**CHAPTER III**

**(Operation of Foreign Exchange Trade)**

**Article 10**

1. We understand by the operation of foreign exchange trade the customary execution on their own behalf or for third parties, of foreign exchange operations.
2. The operation of foreign exchange trade must be specifically authorized by the National Bank of Angola under the terms of the applicable legislation.

**Article 11**  
**(Special Cases)**

The National Bank of Angola may authorize entities linked to tourism, specifically hotels, travel agents, tour operators and duty free shops, to buy and sell foreign currency, travelers checks or other payment instruments from their respective clients, under the terms and provisions established by the Bank.

**Article 12**  
**(Information duty)**

Those entities authorized to operate in foreign exchange trade, must submit to the National Bank of Angola, the information, statistics or data which it may request in keeping with the instructions given and within the time limits and conditions set by the Bank.

**CHAPTER IV**

**(Import, Export, Re-export of gold, currency or letters of credit)**

**Article 13**  
**(Operations in gold)**

1. The import, export or re-export of coined gold, gold bars or other non crafted gold is under the exclusive jurisdiction of the National Bank of Angola.
2. The domestic and international transit of coined gold, gold bars or non crafted gold must be authorized by the National Bank of Angola under the conditions and terms it determines.

**Article 14**  
**(Imports, export and re-export of currency)**

1. The import, export or re-export of legal tender, in bills and coins, national or foreign, as well as travelers checks and other instruments of payment can only be performed by institutions authorized to operate in foreign exchange trade through a special authorization issued by the National Bank of Angola, under its terms and conditions.
2. The provisions in the above paragraph are applicable to the export of national currency not in circulation.

**Article 15**  
**(Import, export and re-export of letters of credit)**

The import, export and re-export of letters of credit, assigning actions or obligations must be conducted under the terms of the applicable legislation.

**Article 16**  
**(Control)**

Customs will only clear packages containing gold - coined or not - bills and coins, travelers checks and other instruments of payment as well as letters of credit if the corresponding import, export or re-export upon presentation of the corresponding authorization as issued by the National Bank of Angola

**Article 17**  
**(Circumstantial measures)**

In case of difficulties in the balance of payments, as well as disturbances in the operation of financial markets, after informing the Government, the Bank of Angola may establish through a notification, restrictions and other conditions to the operations described in this law.

**CHAPTER V**

**(Complementary charters)**

**Article 18**  
**(Operations with goods, intangibles\* and capital)**

We define by the decree the general principles to be followed by import, export and re-export operations as well as operations in current account and capital.

**CHAPTER VI**

**(Infractions and sanctions)**

**Article 19**  
**(Transgressions)**

The following are considered violations liable to penalties under the terms of this charter:

- a) The operations of foreign exchange trade that breach the provisions of article 10 of this law.
- b) The performance of operations that breach the provisions of articles 7, 9, 13 and 15 of this law.
- c) Any breach against the provisions under the charters mentioned in article 18 of this law.

**Article 20**  
**(Sanctions)**

1. The penalty for transgressions defined in paragraph a) of the above article of this law will be a fine of between: KzR:300,000,000.00 and KzR: 40,000,000,000.00.
2. The penalty for transgressions defined in paragraphs b) and c) of the above article of this law will be a fine of between: KzR: 600,000,000.00 and KzR: 100,000,000,000.00
3. The penalties defined in the above paragraphs will vary (within their brackets) according to the value of the operation and the objective and subjective severity of the infraction, without prejudice to the provisions of the following article of this law.
4. If there were any alterations in foreign exchange rates, or whenever deemed necessary or timely, the Bank of Angola may propose to the Government an alteration in the value of the fines, either in the minimum or the maximum amounts specified.

**Article 21**  
**(Ranking of sanctions)**

1. The amount of the fine can never be less than the economic profit realized by the offender.
2. If the agent condemned for a foreign exchange violation, commits a second offense within two years of the previous condemnation, the minimum and maximum limits established in article 20 of this law, will be doubled.
3. The sanctions defined in this charter will be applied with no prejudice to other penal and disciplinary responsibilities provided in other legislation or regulations.

**Article 22**  
**(Responsibility of corporations and their directors)**

1. Corporations and companies, even if their incorporation is deemed irregular, and non incorporated associations have joint and several liability in the payment of fines and legal costs imposed on their directors, employees or agents for violations punishable under the terms of this law.
2. Those responsible for the administration of corporations, even when irregularly incorporated, and non incorporated associations, who within their capacity did not oppose the illegal practice, are individually and subsidiarily liable for the payment of the fine and legal costs, even if the corporation has been dissolved or is undergoing settlement procedures.

**Article 23**  
**(Accessory sanctions)**

The repetition of the violations defined in paragraph a) article 19 of this law as well as those defined in paragraph b) of the same article, as defined in paragraph 2 of the above article may also be punished by:

- a) Seizure by the State of the assets used or obtained through the illicit activity.
- b) Temporary or permanent interdiction from occupying positions in the administration of any institution subject to the supervision of the National Bank of Angola;
- c) Interdiction for up to 3 years from performing any foreign exchange operations.

**Article 24**  
**(Statute of limitation)**

- 1. Processes for foreign exchange violations will prescribe 5 years after the infraction.
- 2. Fines and accessory sanctions prescribe in the same period, to be counted from the date of the final sentence.

**Article 25**  
**(Fact finding and process)**

- 1) The National Bank of Angola is the agency competent to perform the investigation of foreign exchange violations and institute the process, it may inspect any institution and seize the assets used or gained through the illicit activity
- 2) Police authorities and other entities or public services must cooperate with the National Bank of Angola when necessary.
- 3) The application of the fines and other sanctions defined in this charter fall under the jurisdiction of the Governor of the National Bank of Angola
- 4) The decisions made under the terms of the above paragraph may be appealed under the general provisions of the law.

**Article 26**  
**(Disposition of the Fines)**

The fines will be paid to the State

**Article 27**  
**(Forcible collection of fines)**

- 1. The collection of fines, if there has been no appeal and have not been voluntarily paid, fall under the regulations for tax foreclosures.
- 2. The copy of the judicial decision is the basis for the foreclosure and should be sent to the competent court for its implementation.

3. In case of appeal and final condemnation, the collection of fines will fall under foreclosure regulations which must be processed within the judicial system.

## **CHAPTER VII**

### **(Final and transitory provisions)**

1. The regulations provided for under this law must be drafted by the Government, following the proposal to be submitted by the National Bank of Angola within 90 days of its publication.

2. The National Bank of Angola has jurisdiction to define the regulations and procedures to be adopted in foreign exchange operations as well as to publish or transmit instructions, of a technical character or other, necessary for the adequate implementation of the legal framework for those operations.

3. The instructions mentioned in the above paragraph will be valid as of the date of their publication or transmission, except when there are provisions to the contrary.

4. This law is applicable to foreign investment in all areas which are not regulated by a specific legislation.

### **Article 29 (Revocation)**

1. Any legislation contrary to the provisions of this charter, namely Law No9/98, 2 July, is hereby revoked.

2. Any other complementary norms and regulations in force, not in contradiction with this charter will maintain its validity.

### **Article 30 (Doubts and omissions)**

Doubts and omissions that may arise from the interpretation and application of this law shall be resolved by the National Legislative Assembly.

### **Article 31 (Entry into force)**

This law will enter into force on the date of its publication

**Seen and approved by the National Assembly in Luanda, 19 February 1997**

**Roberto Antonio Victor Francisco de Almeida  
The President of the National Assembly**

Enacted on 23 April 1997

Order to publish signed by

**Jose Eduardo dos Santos**  
**President of the Republic**