

MOZAMBIQUE

Global Vision, Local Experience.

JANUARY 2023

Revision of the Foreign Exchange Law

Law n.º28/2022, of 29th December

This Legislative measure (...) grant the legal framework for foreign exchange more sturdiness and modernity, and promoting an attractive business environment for investment in Mozambique and abroad.

Due to the need to improve the flexibility of the foreign exchange market, as well as to adjust it to the operation of a market of unrestricted movement of people, goods and services harmonized with the process of regional integration, Law n.º 28/2022 of December 29 was recently published, revising the Foreign Exchange Law (Law n.º 11/2009, of March 11), which came into force on January 29, 2023.

This Legislative measure comes at a time when there is a growing concern on the part of the Government to adopt measures to mitigate money laundering and financing of terrorism, as a way to overcome the legislative challenges posed by the rising level of commercial relations and transactions between residents and non-residents, as well as foreign investment, with greater emphasis on oil and mining operations, grating the legal framework for foreign exchange more sturdiness and modernity, and promoting an attractive business environment for investment in Mozambique and abroad.

The changes made, seek to strengthen the “meticalization” of the national economy, institutionalizing obligation to perform payments in Meticals in all transactions made within

Mozambican territory, in addition to the following and main new features:

- (a) The scope of application of the Law, which in addition to being applicable to all transactions and operations between residents and non-residents that may trigger payments or receipts abroad, or which the Law qualifies as foreign exchange operations, also covers transactions and operations that take place in Mozambique as a result of a special exchange regime or by involving foreign currency;
- (b) Broadening of the scope of application of the Law, which now includes the State and other public law entities, as well as the forms of representation of legal entities;
- (c) Inclusion of the State and the diplomatic and consular representations of Mozambique abroad in the concept of residence in Mozambique for the purposes of the Law in question;
- (d) Introduction of the NUIB (Unique Bank Identification Number) concept, which is assigned by the Bank of Mozambique for banking and foreign exchange operations;

The changes made, seek to strengthen the “meticalization” of the national economy, institutionalizing obligations to perform payments in Meticals in all transactions made within Mozambican territory.

(e) Enforcement, in the duty of verification, that exchange dealers (banks, exchange bureaus, travel and tourism agencies, hotels and the similar) must perform, for

the prevention and combat of money laundering, terrorist financing and the proliferation of chemical weapons;

- (f) Institutionalization of the duty of ensuring secrecy to recipients of information received about the values, rights generated, acquired or held outside the country;
- (g) Enforcement of the repatriation in foreign currency of revenues from the export of goods and services, as well as income from investments made abroad ;
- (h) Prohibition of payments and receipts between residents in currency other than the Metical, and the use of foreign exchange is only allowed when the transaction occurs abroad or with a non-resident, with rare exceptions arising from specific laws or imposed by the Bank of Mozambique;
- (i) Establishment of the rule according to which

the receipts from abroad must be in foreign currency only, and the mechanism of account matching or compensation in receipts from abroad and in the repatriation of revenues is now forbidden; and

- (j) Dedication of a special section to establish the rules governing Petroleum operations that is subsidiarily applicable to foreign exchange matters relating to the extractive industry.

A final note has to do with the transitional rules, according to which, until the regulation of the Law, the current Regulation of the Foreign Exchange Law applies, as long as it does not conflict with the provisions of this legal diploma, i.e., the new foreign exchange framework applies immediately.

However, natural and legal persons must adjust to this Law within 90 (ninety) days from the date of its entry into force, that is, within this period they must adjust to the new legal framework