

May 2, 2013

Mozambique: banking intermediation in the export of goods

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It has recently been disclosed the publication of the Notice of the Bank of Mozambique (“BM”) nr. 01/GBM/2013, of 8 March 2013 (the “Notice”), which establishes the Statement of Commitment to Bank Intermediation of Export of Goods, as well as the procedures to its effectiveness.

The respective preamble evidences that the Notice aims at assuring the effective enforcement of the duty of repatriation of earnings resulting from the export of goods by resident entities, in compliance with Law nr. 11/2009, of March 11 (the “Foreign Exchange Law”) and its regulation, approved by Decree nr. 83/2010, of December 31 (the “Foreign Exchange Regulation”).

The Notice is applicable to banks and resident exporting entities intervening in foreign exchange transactions involving payments from abroad, in connection with the export of goods, irrespectively of the agreed payment modality.

It is now established that when an export operation takes place, a Statement of Commitment to Bank Intermediation of Export of Goods must be issued (under and in accordance with the procedure laid down in the Notice), according to which the bank certifies that the exporter is its customer and that it is acting as a broker in said operation, and, in turn, the exporter irrevocably undertakes to remit the revenues resulting from such export operation to the bank, within the time limit established for such purpose (“Statement of Commitment”).

By validating the Statement of Commitment, the intermediary bank becomes co-responsible for the transaction.

Intermediary banks must also comply with the following duties:

- > Verify compliance with the Foreign Exchange Law and the Foreign Exchange Regulation;
- > Monitor compliance with the time limits established for the repatriation of the revenues and respective conversion into meticaís; and
- > Maintain updated information in respect of every Statement of Commitment, to enable control of compliance with the duty of repatriation of the revenues of the exportation of goods.

This Notice does not establish any procedures for the remittance of revenues resulting from the export of services and foreign investment, matters that should be dealt with in a separate document.

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In order to better understand the Notice, we find important to briefly highlight the following points of the regime set forth in the Foreign Exchange Law and the Foreign Exchange Regulation:

- > Duty of capital repatriation: obligation, applicable to resident entities, to remit to the country the revenues resulting from the exportation of goods, services and foreign investment, by means of bank transfer, which shall be reflected in national currency in the beneficiary's bank account;
- > Current operations: revenues resulting from the exportation of goods, services and foreign investment fit into the category of current operations and, therefore, are exempted from the previous authorization of the BM, only being subject to registry with the banks; and
- > Reinforcement of the banking system's role: all foreign exchange operations that involve payments to or from or receipt from abroad shall be solely performed through bank transfers from and to banks duly authorized to operate in the national territory.

In this context, the Notice confirms the reinforcement of the role of the banking system, thus requiring that the banks assure an adequate administrative structure that enables them to duly fulfill their increasing duties.

The Notice entered into force on May 1, 2013.

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