

**REGULATION OF FOREIGN  
EXCHANGE IN THE ECONOMIC  
AND MONETARY COMMUNITY OF  
CENTRAL AFRICA**

**BEAC**  
BP. 1917 Yaoundé  
Cellule Centrale d'Etudes des Transferts  
et du Suivi de la Réglementation des Changes

**APRIL 2020**

# **1- REGULATION**

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BP. 1917 Yaoundé  
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## **THE MINISTERIAL COMMITTEE**

Mindful of the revised treaty of 25 June 2008 of the Economic and Monetary Community of Central Africa (CEMAC);

Mindful of the Convention of 25 June 2008 governing the Central African Monetary Union (CAMU);

Mindful of the Monetary Cooperation Agreement of 23 November 1972 between the Member States of the Bank of Central African States (BEAC) and the French Republic;

Considering the Statutes of the BEAC in force;

Considering the Convention of 16 October 1990 establishing a Central African Banking Commission and subsequent amending texts;

Mindful of the Convention of 17 January 1992 on the harmonisation of banking regulations in the Central African States and subsequent amending texts,

Considering the BEAC Operating Account Agreement of 3 October 2014;

Mindful of the Treaty of 10 July 1992 establishing the Inter-African Conference on Insurance Markets (CIMA);

Mindful of Additional Act No. 03/01-CEMAC-CCE-03 of 8 December 2001 establishing the Central Africa Financial Market Surveillance Commission (COSUMAF);

Pursuant to Regulation N°06/03-CEMAC-UMAC of 12 November 2003 on the organisation, functioning and supervision of the Central African Financial Market;



Considering Regulation No. 05/01-UEAC-097-CM-06 of 3 August 2001 on the CEMAC Customs Code;

Mindful of Regulation No. 01/17/CEMAC/UMAC/COBAC on the conditions for the exercise and supervision of the activities of microfinance institutions in CEMAC;

Mindful of Regulation No. 01/CEMAC/UMAC/CM of 11 April 2016 on the prevention and suppression of money laundering, terrorist financing and proliferation in Central Africa;

Considering that exchange rate regulation contributes to the achievement of the objectives of the common monetary policy of the Member States;

Considering the need for the CEMAC economies to preserve their external balance;

Taking into account the liberalisation of the CEMAC economies and the development of international trade;

After approval by the BEAC Board of Directors at its extraordinary session held on 19 December 2018 in Yaoundé, Republic of Cameroon;

Meeting in ordinary session on 21 December 2018 in Yaoundé, Republic of Cameroon;

On the proposal of the Governor of BEAC,

**UNANIMOUSLY ADOPTS THE FOLLOWING REGULATION:**

## Table of contents

PART I - GENERAL PROVISIONS .....	5
CHAPTER I – DEFINITIONS AND ACRONYMS .....	5
CHAPTER II - SUBJECT - SCOPE - GENERAL PRINCIPLES .....	11
CHAPTER III - ADMINISTRATIVE ORGANIZATION OF FOREIGN EXCHANGE REGULATION .....	13
Section 1 : of the BEAC .....	13
SECTION 2: The Ministry in charge of currency and credit .....	14
Section 3 : COBAC .....	14
Section 4 : Approved Intermediaries.....	15
CHAPTER IV - REGULATIONS FOR EXTERNAL OPERATIONS .....	15
CHAPTER V : ASSIGNMENT AND RETROCESSION OF FOREIGN CURRENCIES .....	16
TITLE II RESIDENTS' AND NON-RESIDENTS' ACCOUNTS .....	17
CHAPTER I - FOREIGN CURRENCY FOR RESIDENTS ACCOUNTS.....	17
CHAPTER II - NON-RESIDENT ACCOUNTS.....	18
Section 1: Non-resident accounts in foreign currency .....	18
Section 2 : Non-resident accounts in CFA Franc.....	18
TITLE III - CURRENT TRANSACTIONS.....	19
CHAPTER I - EXPORT AND IMPORT OF GOODS.....	19
Section 1 : Export of goods and repatriation of income.....	19
Section 2 : Import of goods and regulations .....	20
Section 3 : Transactions relating to gold and precious stones .....	20
CHAPTER II - EXPORT AND IMPORT OF SERVICES .....	21
Section 1 : Export of services and repatriation of revenues.....	21
Section 2 : Importation of services and regulations .....	21
CHAPTER III : TRIPS .....	22
CHAPTER IV MANUAL CHANGE .....	23
CHAPTER V OTHER CURRENT TRANSACTIONS .....	25

TITLE IV : FINANCIAL AND CAPITAL TRANSACTIONS .....	26
CHAPTER I : FOREIGN SECURITIES .....	27
CHAPTER II : BORROWINGS-LOANS-REPAYMENTS .....	27
Section 1 : Loans and repayments .....	27
Section 2 : Loans and refunds .....	29
CHAPTER III: DIRECT AND PORTFOLIO INVESTMENT .....	30
Section 1 : Direct inward investment .....	30
Section 2 : Outgoing direct investment .....	30
Section 3 - Inbound portfolio investment.....	31
Section 4 - Outgoing portfolio investment.....	32
PART V - HEDGING TRANSACTIONS AGAINST CURRENCY RISK .....	32
TITLE VI - COMMUNICATION OF INFORMATION AND REPORTS OF OPERATIONS WITH THE OUTSIDE WORLD .....	33
TITLE VII : CONTROLS, INFRINGEMENTS AND PENALTIES .....	34
CHAPTER I : CONTROLS .....	34
CHAPTER II : INFRINGEMENTS AND PENALTIES.....	35
Section 1 : General information .....	35
Section 2 : Administrative Monetary Penalties.....	35
Section 3 : Non-monetary administrative Penalties .....	40
TITLE VIII - SPECIAL, TRANSITIONAL AND FINAL PROVISIONS .....	41
CHAPTER I : SPECIAL PROVISIONS.....	41
Section 1: Escrow, guarantee and similar accounts .....	41
Section 2: Safeguard measures relating to the preservation of CEMAC's external accounts .....	42
CHAPTER II: TRANSITIONAL AND FINAL PROVISIONS .....	43



## **TITLE. I GENERAL PROVISIONS**

### **CHAPTER I — DEFINITIONS AND ACRONYMS**

**Article 1-** For the purposes of these Regulations, the terms and acronyms shall be understood as

- 1) Administrative Authority: an entity of the State involved in the implementation of foreign exchange regulations.
- 2) Assent: an opinion whose terms are binding on the competent authority which cannot override them.
- 3) BEAC or Central Bank: Bank of Central African States.
- 4) Goods: physical assets or products on which property rights can be established and whose economic ownership can be transferred from one institutional unit to another through transactions.
- 5) Currency exchange office: legal entity approved by the Ministry in charge of currency and credit for carrying out manual exchange activity.
- 6) CIF : (Cost Insurance Freight)
- 7) CEMAC : Central Africa Economic and Monetary Community.
- 8) Manual exchange: Traveller's notes or cheques, sold or purchased at a bank or exchange office against local currencies.
- 9) CIMA : African Insurance Market Conference.
- 10) COBAC: Central African Banking Commission
- 11) Non-resident account: an account opened in the name of a non-resident person or legal entity.

- 12) Resident account: an account opened in the name of a resident person or a legal entity.
- 13) Foreign currency account: account denominated in a currency other than the CFA Franc issued by BEAC.
- 14) Escrow account: a custody account opened with an authorized institution in the name of a beneficiary creditor and whose resources are immobilized over an agreed period.
- 15) Guarantee account: account opened with a residential establishment to guarantee a contractual commitment made by a debtor.
- 16) Legal tender: The quality of the currency in circulation in the CEMAC that no one can refuse to receive for the settlement of transactions denominated in CFA franc.
- 17) Currency hedging: A financial technique used to protect against fluctuations in the exchange rate of the currency in which an asset or liability is denominated.
- 18) Leasing: a professional credit technique involving a contract of lease for movable or immovable equipment, accompanied by a promise to sell to the lessee, at an agreed price taking into account, at least in part, the payments made in respect of the rents.
- 19) Import/export declaration: document issued by the customs administration attesting to an import or export of goods or services.
- 20) Currency or foreign currency: currency other than the CFA Francs issued by BEAC.
- 21) Domiciliation: act by which an importer or exporter mandates an approved intermediary to carry out on his behalf the terms of an import or export operation from the initiation to clearance of the operation.



- 22) Credit institution: an organisation that carries out banking operations as a regular profession within the meaning of banking regulations in CEMAC countries.
- 23) Sub-delegated institution: a legal entity other than a credit institution, exchange office and semi-micro-finance institution, which benefits from a delegation of a credit institution to carry out, under the responsibility of the latter, foreign exchange transactions in the context of its nominal activity, in particular hotels, travel agencies, airport shops and casinos.
- 24) Foreign or external: countries other than those of the CEMAC.
- 25) Euro: currency having legal tender and liberating power within the countries of the European System of Central Banks.
- 26) Export: the departure of goods or services to a foreign country or a free zone located on the national territory of one of the CEMAC countries or any other similar foreign area.
- 27) CFA Franc: franc of Financial Cooperation in Central Africa or XAF, Currency having legal tender status and liberatory power in the CEMAC countries.
- 28) FOB : Free On Board
- 29) GABAC : Action Group against Money-Laundering in Central Africa
- 30) Import: entry of goods or services into the CEMAC from abroad or from a tranche zone located in one of the CEMAC countries or from any other similar foreign area.
- 31) Approved intermediary: credit institution, post office administration and for manual foreign exchange transactions, micro-finance institution and approved exchange offices.
- 32) Portfolio investment: cross-border transactions and positions in debt securities or equities, other than direct investment or reserve assets.

- 33) Direct investment: participation greater than or equal to 10% held by a resident in the capital of a non-resident company or by a non-resident in the capital of a resident company giving him control or significant influence over its management as well as real estate investment made abroad by a resident or in CEMAC by a non-resident or investment in an enterprise controlled or indirectly influenced by the investment company, fellow enterprises, as well as debts.
- 34) Liberality: an act by which a person disposes free of charge, by inter vivos donation or will, of all or part of his property or rights for the benefit of another, whether or not belonging to his family.
- 35) AWB: Air waybill.
- 36) Foreign exchange market: intangible financial space where convertible currencies are traded.
- 37) Non-resident: an individual or legal entity having his or her habitual residence or centre of economic interest predominating outside the CEMAC, including in particular:
- Heads of diplomatic missions, diplomats and assimilated, as well as members of their families;
  - foreign patients, including long-term patients and the persons accompanying them;
  - Tourists ;
  - Students;
  - civil servants employed in extraterritorial enclaves;
  - embassies, consulates, civil and military missions, international and regional organizations;
  - soldiers on mission;
  - seasonal workers;
  - crew members of ships, aircraft and oil platforms,
  - companies or enterprises which carry out specific temporary tasks in CEMAC countries unless they are registered in the Trade and Personal Property Credit Registry of a CEMAC State, even on a provisional basis.



- 38) Foreign exchange transaction: a spot or forward transaction, manual or automated, the settlement of which involves or implies the conversion of the CFA Franc into another currency and vice versa.
- 39) Electronic payment: payment made at least partially by electronic means of payment, as defined in the E-Money Regulation.
- 40) Property to extinguish debts, attached to the official currency in circulation in CEMAC Member States.
- 41) Arm's length principle: rule according to which the prices of transactions between related entities are established by reference to the prices charged by independent companies.
- 42) Proliferation: activity aimed at the manufacture, acquisition, development, possession, transport, transfer or use of nuclear, biological, chemical weapons or their means of delivery, in particular for terrorist purposes.
- 43) Financial market regulator: authority in charge of supervising the financial market in Central Africa.
- 44) Resident: an individual or a legal entity having its habitual residence or centre of economic interest predominating in CEMAC, even if they stay discontinuously for more than one year in one of the CEMAC countries or intend to pursue an economic activity there for at least one year, including refugees, locally recruited employees of extraterritorial enclaves, staff of international organisations who do not have the status of diplomat or equivalent diplomat and branches of multinationals.
- 45) Foreign resident: a resident individual who is a national of a country other than CEMAC countries.
- 46) Input income: income that accrues to institutional units in return for their contribution to the production or provision of financial assets and the rental of natural resources to other institutional units.



- 47) Currency risk: uncertainty about the value of one currency against another in the short and medium term in relation to the future change in their respective conversion rates.
- 48) Service: Intangible service provided by a resident for a non-resident and vice versa.
- 49) Current transactions: flow of goods, services, primary and secondary incomes.
- 50) Transfer: a transaction executed at least in part electronically on behalf of a payer, through a payment service provider, for the purpose of making funds available to a payee.
- 51) VAT : value added tax
- 52) UEMOA : West African Economic and Monetary Union.
- 53) CAMU: Central African Monetary Union
- 54) Securities and other financial securities: securities and similar rights registered in an account, issued by public or private legal entities, which confer identical rights by category, fungible, freely transferable and movable by purpose of the law, giving access, directly or indirectly, to a share of the issuing entity's capital or a general right of claim on its assets, which include shares representing shareholders' rights, bonds and other debt securities representing creditors' rights as well as shares or shares in undertakings for collective investment in securities.
- 55) CEMAC securities: securities issued in a CEMAC Member State by a public or private legal entity resident and denominated in CFA Franc.
- 56) Foreign securities: securities issued in a CEMAC Member State by a legal person governed by public or private law and denominated in a foreign currency or issued in CFA Franc by a non-resident.

- 57) Firm sale: contract by which the seller transfers ownership of a thing and undertakes to deliver it to the buyer, who undertakes to pay him the price.
- 58) Emission Area: space gathering the CEMAC countries using the CFA Franc issued by BEAC.
- 59) Franc zone: monetary cooperation area comprising France and Monaco, the Comoros, the CEMAC Member States, comprising Cameroon, Central African Republic, Congo, Gabon, Equatorial Guinea and Chad, as well as the UEMOA Member States, including Benin, Burkina Faso, Côte d'Ivoire, Guinea Bissau, Mali, Niger, Senegal and Togo, linked to each other by monetary cooperation agreements.

## **CHAPTER II - SUBJECT MATTER - SCOPE - GENERAL PRINCIPLES**

**Article 2.** These Regulations define the organisation as well as the conditions and procedures for carrying out foreign exchange operations in CEMAC Member States.

**Article 3.** This Regulation shall apply to payments and settlements of current or capital transactions to or from abroad as well as to manual foreign exchange transactions of all resident and non-resident economic agents.

**Article 4.** All transactions covered by these Regulations must comply with the regulations in force in CEMAC on the prevention and suppression of money laundering, terrorist financing and proliferation.

**Article 5.** Capital transactions are free, unless otherwise provided in these Regulations.

**Article 6.** All transfers, payments and settlements of current transactions to foreign countries may be made freely, subject to proof of the origin of the funds and the presentation of the documents required by foreign exchange regulations.

However, within the limit of CFAF 1 million per month and per economic agent, these operations shall be carried out freely on the basis of a simple indication of the origin of the funds, subject to their declaration to the Central Bank.



**Article 7.** The currency issued and having legal tender and liberating power in the CEMAC is the Franc of the Financial Community in Africa abbreviated to CFA Franc.

The CFA Franc is linked to the Euro by a fixed parity, at the rate of 1 CFA Franc equal to 0,001524 Euro.

**Article 8.** The purchase and sale prices of currencies other than the euro are established on the basis of the fixed exchange rate of the CFA Franc against the euro and the exchange rates of these currencies against the euro on the exchange markets.

Approved intermediaries display the exchange rates for buying and selling currencies at their counters.

**Article 9.** An exchange fee, known as a manual exchange fee, determined by free competition, is charged by authorised intermediaries on exchanges of foreign banknotes. It covers all expenses relating to manual foreign exchange transactions as well as the intermediation margin.

However, the Central Bank may set a maximum rate depending on market conditions.

**Article 10.** Imports of foreign currency by the BEAC are free of all taxes and customs duties.

**Article 11.** Subject to the prior authorisation of the Central Bank, authorised intermediaries may import foreign currency under the conditions and procedures specified by the latter's Instruction.

Imports of foreign currency made by authorised intermediaries are subject only to a stamp duty of 0.01% of their face value.

**Article 12.** Under penalty of administrative and criminal penalties provided for by the regulations in force, the export of CFA Franc coins is prohibited, subject to the possibility offered only to residents to hold in their possession, during their travels, a sum of a maximum amount of CFAF 5000.



## **CHAPTER III - ADMINISTRATIVE ORGANISATION OF FOREIGN EXCHANGE REGULATION**

### **SECTION 1: Of BEAC**

**Article 13.** In accordance with its Statutes, the BEAC conducts CEMAC's exchange rate policy. In this respect, it draws up the rules relating to the implementation of exchange rate policy and ensures, in collaboration with the Ministry in charge of currency and credit that economic agents comply with the exchange regulations applicable in the CEMAC.

**Article 14.** The BEAC issues an assent for the approval of exchange offices by the Ministry of Currency and Credit.

**Article 15.** BEAC authorizes the import of foreign currency by credit institutions as well as the issuance, advertising and sale or transfer of foreign securities for amounts exceeding CFAF 50 million.

**Article 16.** As part of its supervisory role, the BEAC monitors the compliance of external transactions and operations with foreign exchange regulations. To this end, it carries out, with the assistance of COBAC and the Ministry in charge of currency and credit, on-the-spot and documentary checks to ensure that authorised intermediaries and other economic agents comply with all provisions relating to exchange regulations.

**Article 17.** As part of its controls, the BEAC may ask economic agents to communicate information relating to their external transactions, accompanied by the necessary supporting documents.

**Article 18.** The BEAC identifies exchange rate violations and imposes administrative sanctions on offending economic agents. To this end, it may request the assistance of the Ministry in charge of currency and credit and COBAC under the conditions and procedures provided for in these regulations.

The BEAC informs the Ministry in charge of currency and credit and, where applicable, the COBAC, of the failure of economic agents to comply with foreign exchange regulations.

## **SECTION 2: The Ministries in charge of currency and credit;**

**Article 19.** The Ministry in charge of currency and credit issues and withdraws the approval of exchange offices. As such, it exercises administrative control over them.

**Article 20.** The competent administrations of the Ministry in charge of currency and credit shall contribute to the monitoring of the implementation of the exchange regulations in force in CEMAC. They are in particular responsible for:

- the formalization of imports and exports of goods and services;
- the verification of the effectiveness of the inputs and outputs of goods and services on which exports and imports are based,
- The control of economic agents at border posts.

**Article 21.** The competent administrations of the Ministry of Currency and Credit provide the Central Bank with information on imports and exports of goods and services.

**Article 22.** The Ministry in charge of currency and credit shall record and punish breaches by economic agents of exchange regulations under the conditions provided for in these Regulations and shall inform the BEAC thereof.

## **SECTION 3: Of COBAC**

**Article 23.** COBAC supports BEAC in monitoring the implementation of foreign exchange regulations. In this respect, under the terms and conditions provided for in these Regulations and in its implementing regulations, COBAC is responsible in particular for.

- monitor authorised intermediaries to ensure that they comply with their obligations under the implementation of exchange regulations,
- Record and sanction breaches of exchange regulations by authorised intermediaries under the conditions provided for in these Regulations and inform the BEAC thereof.

**Article 24.** COBAC communicates the results of its controls to the Ministry in charge of currency and credit and to BEAC and, where applicable, informs them of the sanctions imposed on approved non-compliant intermediaries.



## **SECTION 4: Approved intermediaries**

**Article 25.** Approved intermediaries ensure that external transactions comply with foreign exchange regulations before they are executed. They also ensure that sub-delegated institutions comply with their obligations under foreign exchange regulations.

**Article 26.** Approved intermediaries collect information on external transactions and report periodically to the Central Bank in accordance with the exchange regulations. As such, they may request information from customers.

**Article 27.** Where the authorised intermediary domiciliating an operation has doubts as to its regularity, he shall inform the competent authority in accordance with the regulations in force in CEMAC on the prevention and repression of money laundering and the financing of terrorism and proliferation.

**Article 28.** Credit institutions shall periodically communicate to the Central Bank statements of their correspondent accounts and global foreign exchange positions as well as any other relevant document making it possible to verify currency inflows and outflows.

## **CHAPTER IV - REGULATIONS FOR EXTERNAL OPERATIONS**

**Article 29.** Payments for external transactions are made through correspondent banks in one of the currencies of both partners or in any other currency accepted by both parties to the transaction.

**Article 30.** External transactions are settled exclusively through credit institutions. For this purpose, transactions between two resident entities cannot be settled through bank accounts domiciled abroad.

**Article 31.** Transfers of funds to foreign countries may be subject to a transfer fee, determined by free competition.

However, a Central Bank Instruction may set the maximum transfer fee rate if market conditions so require.



The transfer fee is charged exclusively to the benefit of the approved intermediary when he uses the channel of his external correspondents for the settlement of the expiry date. On the other hand, when the transfer is carried out through the Central Bank, the share of the commission due to the Central Bank is determined by the latter's Instruction.

**Article 32.** Settlements of external transactions are reported to the Central Bank and the relevant administrative authorities.

An Instruction of the Central Bank specifies the terms and conditions for reporting external transactions.

**Article 33.** External transactions with electronic payment instruments are treated as transfers and manual exchange.

**Article 34.** The use of electronic payment instruments outside CEMAC is restricted to current transactions within the limits of the thresholds provided for in these Regulations.

**Article 35.** Transfer orders related to transfers are issued within 2 working days of the client's submission of the request at the credit institution's counters, provided that all the conditions are met by the latter and the client.

## **CHAPTER V: ASSIGNMENT AND RETROCESSION OF FOREIGN CURRENCIES**

**Article 36.** foreign currencies held in a CEMAC Member State, regardless of their ownership, shall be transferred or, where applicable, deposited by the owner with a credit institution.

**Article 37.** Residents shall transfer to their domiciliary credit institution all income or proceeds received in foreign currency abroad or paid by a non-resident in respect of their external transactions.

**Article 38.** The currencies collected by credit institutions are retroceded to the Central Bank.

However, in order to cover the current foreign exchange needs of their customers, credit institutions may be authorised to keep a proportion of the currencies received.

An Instruction of the Central Bank specifies the conditions and modalities of foreign exchange retrocession by credit institutions.

**Article 39.** The currencies referred to in Article 37 of these Regulations include export earnings from goods and services, borrowings, current account advances, income, donations, direct or portfolio investments and transfers without counterpart.

**Article 40.** Unjustified foreign currency assets held by credit institutions in the accounts of correspondents shall be transferred to the Central Bank under the terms and conditions specified by the latter's Instruction.

## **TITLE II RESIDENTS' AND NON-RESIDENTS' ACCOUNTS**

### **CHAPTER I - RESIDENTS ACCOUNTS IN FOREIGN CURRENCY.**

**Article 41.** The opening of an account in foreign currency outside the CEMAC is prohibited to resident legal entities, with the exception of credit institutions.

However, the Central Bank may authorise a resident legal entity to open a foreign currency account outside the CEMAC under the conditions and procedures laid down by the latter's Instruction. The Central Bank shall inform the Ministry in charge of currency and credit accordingly.

**Article 42.** The accounts of individuals' resident abroad are reported to the Central Bank.

**Article 43.** The opening of a foreign currency account in CEMAC for the benefit of a resident is not permitted.

However, the Central Bank may authorise a resident corporation to open a foreign currency account in the CEMAC under the conditions and procedures laid down by the latter's Instruction.



**Article 44.** The foreign currency account opened in CEMAC may not be credited with payments in CFA Franc or by debiting an account in CFA Franc. In addition, it may not have a debit balance.

**Article 45.** Withdrawals of foreign currency from a resident's foreign currency account to cover local needs are prohibited.

## **CHAPTER II - NON-RESIDENT ACCOUNTS**

### **SECTION 1: Non-resident accounts in foreign currency.**

**Article 46.** The opening of non-resident accounts in foreign currency in the books of credit institutions is free in the CEMAC, subject to ex post information from the Central Bank.

The applicant shall send the credit institution a reasoned request to open a non-resident's account in foreign currency.

**Article 47.** Transactions to debit and credit non-resident accounts in foreign currency are free, subject to compliance with the regulations in force.

**Article 48.** Non-resident accounts in foreign currency may not be credited with payments in CFA Franc or by debiting an account in CFA Franc.

Non-residents' accounts in foreign currency may not be in debit.

**Article 49.** Withdrawals of foreign currency from the accounts of non-residents in foreign currency to cover local needs are prohibited.

**Article 50.** The loss of non-resident status automatically results in the closure of the non-resident's account and the credit balance is transferred to a resident's account in CFA Franc.

### **SECTION 2: Non-resident accounts in Franc CFA.**

**Article 51.** The opening of non-resident accounts in CFA francs in the books of credit institutions is free in CEMAC, subject to the presentation of the documents required by exchange regulations.

**Article 52.** Credits and debits to non-resident accounts in CFA Franc are free, subject to compliance with the regulations in force.

### **TITLE III — CURRENT TRANSACTIONS.**

#### **CHAPTER I - EXPORT AND IMPORT OF GOODS**

##### **SECTION 1: Export of goods and repatriation of revenues.**

**Article 53.** All transactions related to exports of goods are reported to the competent administrative authorities. Transactions related to exports of goods worth CFAF 5 million or more are domiciled with a CEMAC credit institution.

Leasing operations involving the export of equipment or material shall be treated as deferred payment exports and shall be subject to the obligation of a bank direct debit provided for in this Article.

**Article 54.** Any export of goods gives rise to the submission of an export declaration to the customs administration or entity in lieu thereof and a firm exchange commitment obliging the exporter to repatriate and transfer the related revenues within the applicable regulatory time limits.

**Article 55.** The exporter has a maximum period of 150 days from the effective date of export to collect and repatriate the export proceeds from firm sales.

**Article 56.** The export earnings from the services are collected and repatriated by the exporter through his domiciliary bank through the Central Bank.

**Article 57.** At the exporter's request, the receiving bank may settle commercial and financial discounts or returns of goods on exports, on presentation of supporting documents:

**Article 58.** The credit institution may pay export commissions provided for in a representation, brokerage, service or factoring contract.

**Article 59.** Any reduction in the amount of the export product to be repatriated following a withholding tax on bills of intermediation or any other costs related to the basic transaction is justified by economic agents at the time of repatriation of their revenues. To this end, economic agents shall provide the authorised



intermediaries with the relevant supporting documents for the purpose of post-clearance checks by the competent authorities.

**Article 60.** The conditions and procedures for the domiciliation and payment of the export of goods and for the clearance of the relevant file shall be specified by instructions from the Central Bank.

## **SECTION 2: Importation of goods and regulation**

**Article 61.** Imports of goods into CEMAC are free, with the exception of gold and other goods subject to specific regulations. In addition, States may impose restrictions on the import of certain goods on humanitarian, health, safety, security, security or environmental grounds.

**Article 62.** all imports of goods are subject to an import declaration to the customs administration or to the customs administration in its place.

For goods subject to import restrictions, authorisation from the competent technical authorities is required in addition to the above-mentioned import declaration.

**Article 63.** Article Imports of goods for an amount equal to or greater than 5 million CFA francs are domiciled with a credit institution in the country of final destination.

**Article 64.** Import operations exempt from the direct debit requirement are specified by instructions from the Central Bank.

## **SECTION 3: Transactions relating to gold and precious stones**

**Article 65.** Residents are free to hold, buy and sell gold and precious stones in any form within CEMAC, subject to compliance with applicable regulations.

**Article 66.** The import and export of gold and precious stones are subject to prior authorization by the competent technical authorities.

Are exempt from prior authorization:

- gold imports and exports carried out by the Treasury on its behalf, as well as those carried out by the Central Bank;

- Imports and exports of manufactured articles containing a small quantity of gold or precious stones, including lined or plated articles.

## **CHAPTER II — EXPORT AND IMPORT OF SERVICES**

### **SECTION 1: Export of services and repatriation of revenues.**

**Article 67.** All external transactions related to services are reported to the relevant authorities.

**Article 68.** Transactions with third parties related to services for an amount equal to or greater than CFAF 5 million are domiciled with a CEMAC credit institution.

**Article 69.** All exports of services are evidenced by a contract for the provision of services or any document in its place.

The service contract may consist of one of the following documents: agreement, purchase order or contract form, invoice or any other document in lieu thereof.

The service contract must include the following information:

- the names of the contracting parties and their addresses;
- the purpose, nature and scope of the services to be provided;
- the agreed remuneration and its terms of payment;
- The date of conclusion of the contract and its duration.

**Article 70.** The export earnings from the services are collected and repatriated by the exporter through his domiciliary bank through the Central Bank.

### **SECTION 2: Importation of services and regulation**

**Article 71.** All imports of services are evidenced by a contract under which a non-resident undertakes to provide a resident with a service or technical assistance, or in particular to grant him the right to use a sign, trademark or trade name.

**Article 72.** All service import expenses are reported to the Central Bank.



Transactions for an amount equal to or greater than CFAF 5 million are domiciled with a CEMAC credit institution.

**Article 73.** Any technical assistance or import of intra-group services, as well as any financial contribution by resident companies to the management and research and development costs incurred by their parent companies or shareholders, is subject to compliance with the arm's length principle.

**Article 74.** Imports of services shall be carried out under the responsibility of the entity concerned and shall consist of the actual provision of services corresponding to the real needs of the resident entities and remunerated at their fair price, failing which the relevant transfer payments shall be rejected.

Credit institutions shall carry out specific checks for these operations in accordance with the terms and conditions specified in the Central Bank Instruction.

**Article 75.** The BEAC defines by Instruction the terms and conditions and the constituent elements of the pre-financing and hedging files for the import of services.

### CHAPTER III: TRIPS

**Article 76.** The allocation of foreign exchange to travellers is subject to the production of the documents referred to in Article 80 of these Regulations.

**Article 77.** Foreign exchange is allocated in cash, by funds transfer, credit card or prepaid card. It is capped, all means of payment combined, at the equivalent of CFAF 5 million per person and per trip

For foreign exchange needs exceeding the ceiling indicated in paragraph 1 of this article, duly justified requests shall be met by authorised intermediaries.

**Article 78.** Individuals crossing the borders of CEMAC, on entry or exit, are authorised to hold through them, without declaration, cash sums not exceeding the equivalent of 5 million CFA francs, foreign exchange and CFA francs combined. Any amount exceeding CFAF 5 million or the equivalent in foreign currency as well as negotiable instruments and securities corresponding to this threshold are subject to a declaration to the customs services, under penalty of sanctions provided for by the regulations in force.

The obligation to report is not fulfilled if the information provided by the individual is incorrect or incomplete.

During checks at border posts, the customs services identify the traveller and may, if necessary, request additional information on the origin of the funds transported. In the absence of proof of the origin of the funds, the customs services confiscate the sums in question and remit them to the Central Bank.

Resident travellers entering CEMAC must return the currency they hold to an approved intermediary.

**Article 79.** Upon leaving CEMAC, non-resident travellers may carry foreign currency or any other foreign means of payment for an amount equal to the maximum amount they declared upon entering CEMAC.

When non-resident travellers have not made any declaration on entry or if they carry sums exceeding their own contributions, they must justify their origin for amounts exceeding CFAF 5 million. In the absence of proof of the origin of the funds, the customs services confiscate the sums in question and remit them to the Central Bank.

**Article 80.** In support of their requests, travellers must submit the following documents, depending on the purpose of the trip

- for tourists, a valid travel document and a transport ticket;
- for business travel, a professional card or certificate, a valid travel document and a travel ticket;
- for students and trainees, a student card or a certificate of registration or a certificate of tuition or a certificate of scholarship, a valid travel document and a travel ticket;
- for official missions, a mission order, a valid travel document and a transport ticket;
- for other travellers, a valid travel document and a transport ticket.

#### **CHAPTER IV - MANUAL EXCHANGE.**

**Article 81.** Credit and micro-finance institutions, post offices and exchange offices are authorised to carry out manual foreign exchange operations in accordance with the provisions of these Regulations.



However, in the context of transactions to purchase foreign currency from customers, credit institutions may grant sub-delegations to certain entities, in particular hotels, travel agencies, airport shops and casinos, which, because of their activities, receive payments in foreign currency from foreign travellers. Credit institutions shall notify the Central Bank of the sub-delegations granted to eligible entities.

**Article 82.** Currency exchange offices are approved by the Ministry in charge of currency and credit for the exercise of manual exchange activity, after approval by the BEAC.

The application for approval shall be submitted to the Ministry of Currency and Credit, accompanied by a file, the constituent documents of which shall be laid down by Central Bank Instruction.

Exchange offices shall effectively start their manual exchange activity within one year of the date of notification by the Ministry in charge of currency and credit of their approval, failing which it shall lapse.

BEAC maintains and updates the list of approved exchange offices.

**Article 83.** The sub-delegated institutions of the credit institutions carry out, on a subsidiary basis, the purchase of foreign currency for cash. They may not, under any circumstances, sell foreign currency.

Sub-delegated institutions sell to the delegated credit institutions every 15 days the currencies collected in the course of their business.

Credit institutions shall ensure that their subdelegates comply with the manual exchange provisions of these Regulations and subsequent texts and shall report annually to the Central Bank and COBAC.

**Article 84.** Entities authorised to carry out manual foreign exchange operations shall be required to.

- serve their customers within the limits of their foreign currency availability and the currency allocation thresholds set by these Regulations;
- check the conformity of the supporting documents presented by customers;
- report to the Ministry in charge of currency and credit, the Central Bank and COBAC, in accordance with the procedures provided for in these Regulations and in subsequent texts.

**Article 85.** The BEAC defines by Instruction the conditions and modalities for carrying out manual foreign exchange activity.

## **CHAPTER V- OTHER CURRENT TRANSACTIONS**

**Article 86.** Other current external transactions are reported by credit institutions to the Central Bank and to the Ministry of Money and Credit.

**Article 87.** The exercise of the activity of transferring funds through foreign cash transport companies is subject to compliance with a set of specifications issued by the Central Bank.

**Article 88.** Transfers abroad of more than CFAF 100 million are declared to the Central Bank and the Ministry in charge of currency and credit at least 30 days before their completion.

**Article 89.** For the purposes of this Regulation, factor income includes:

- direct and portfolio investment income;
- labour compensation;
- work remuneration ;
- Other income, including rents, product and production taxes and subsidies.

**Article 90.** Transfers of capital income of non-residents outside CEMAC, in particular in the form of profits, dividends, interest and royalties, shall be free, subject to the provision of supporting documents required by exchange regulations, where the basic transaction is not subject to authorisation or, where applicable, has been authorised by the competent authority.

**Article 91.** Transfers, outside the CEMAC, of part of the working income of non-residents or foreign residents, in particular salaries, fees, per diem, miscellaneous allowances and social benefits, are free on presentation of the supporting documents required by exchange regulations.

**Article 92.** Transfers, outside CEMAC, of other non-resident income, in particular rents and taxes on products and production, are free upon presentation of supporting documents.

**Article 93.** Transfers, outside CEMAC, of non-resident income from public and private contracts are free on presentation of supporting documents.



**Article 94.** Without prejudice to the application of Article 6 of these Regulations, requests for transfers for amounts exceeding one million CFA francs shall be made on presentation of the supporting documents required by exchange regulations.

**Article 95.** Other transfer operations outside CEMAC are free, subject to the presentation of supporting documents. These include the following operations:

- the payment of taxes due to a foreign administration;
- the payment of penalties and fines imposed by a foreign administration;
- contributions, social benefits, annuities, pensions, insurance premiums or allowances;
- the payment of damages due following a judicial, arbitrating or amicable settlement decision;
- family workers due to illness, study or subsistence;
- donations and gifts to charitable organisations, medical research organisations or associations defending social or humanitarian causes, up to a maximum of CFAF 10 million per year and per principal;
- donations and inheritances;
- income from the sale of assets;
- Sums from various legal sources.

**Article 96.** Transfer requests are executed by credit institutions upon presentation of the supporting documents required by foreign exchange regulations.

#### **TITLE IV: FINANCIAL AND CAPITAL TRANSACTIONS**

**Article 97.** Financial and capital transactions between CEMAC and the outside world are free, subject to compliance with the provisions of these Regulations and subsequent texts.

When carrying out financial and capital transactions, credit institutions are responsible for verifying the origin of funds, their nature and destination and for collecting information for the Ministry of Currency and Credit and for the BEAC.

**Article 98.** The transfer of foreign securities and all other capital transactions between CEMAC residents are not subject to authorisation.

## **CHAPTER I: FOREIGN SECURITIES**

**Article 99.** The funds collected in CEMAC on the occasion of an issue of securities in foreign currency or CFA Franc by a non-resident are intended to finance investments in the sub-region as a matter of priority.

**Article 100.** For amounts of less than CFAF 50 million, the issue, advertisement, sale or transfer of foreign securities shall be declared to the Central Bank and the Central African Financial Market Regulator prior to the operation.

**Article 101.** beyond CFAF 50 million, the issuance, advertising and sale or transfer of foreign securities in CEMAC, under foreign exchange regulations, are subject to prior authorization by BEAC, which informs the Ministry in charge of currency and credit, without prejudice to the assent of the Central African Financial Market Regulator.

**Article 102.** The transfer abroad of the proceeds of an issue of foreign securities issued in CEMAC is subject to the authorisation of the Central Bank, which informs the Ministry in charge of currency and credit.

## **CHAPTER II: BORROWINGS-LOANS-REPAYMENTS**

### **SECTION 1: Loan and Repayments**

**Article 103.** CEMAC residents are free to borrow from non-resident entities.

**Article 104.** Issues of securities outside CEMAC by resident entities are considered as loans.

**Article 105.** All loans contracted with non-residents, either by an individual or a legal entity whose habitual residence or registered office is in CEMAC, or by branches or subsidiaries in CEMAC of corporate bodies whose registered office is abroad, must, 30 days before their implementation, be declared by the borrower or his representative to the Ministry in charge of currency and credit and the Central Bank.

The loan declaration is accompanied by a file containing in particular:

- The contract relating to the loan;
- the repayment schedule of the loan;



- the company accounts of the applicant party;
- the act authorizing the person in charge to bind the entity in connection with the loan, if applicable.

**Article 106.** Thirty days after the completion of the operation, the borrower or his representative shall send to the Ministry in charge of currency and credit and to the Central Bank the documents certifying the effectiveness of the borrowing operation, in particular the documents proving the repatriation of the loan or the acquisitions made.

**Article 107.** Credit institutions are free to execute, on behalf of customers, international transfers in respect of the repayment due dates of their borrowings, subject to the provision of the following supporting documents:

- Proof of prior declaration of the loan to the Ministry in charge of currency and credit and to the BEAC;
- the repayment schedule or amortization schedule for the loan;
- the document establishing the repatriation of the loan or the effectiveness of the acquisitions made;
- the loan or borrowing contract

**Article 108.** Loans contracted abroad by the states as well as loans guaranteed by them are reported to the Central Bank by the Ministry in charge of currency and credit.

The statement must include, at a minimum, information on the amount of the loan, the currency and the repayment schedule.

**Article 109.** The Central Bank's performance of international transfers as part of the settlement of the repayment due dates of loans contracted abroad by States is subject to the provision by the States of documents proving the repayment of the loan or the acquisitions made.

**Article 110.** Credit institutions are free to borrow from non-residents, subject to reporting to the Ministry of currency and Credit and BEAC, no later than 30 days after their completion.

**Article 111.** Repayments of loans referred to in Article 105 of these Regulations shall be declared by the credit institutions to the Ministry responsible for currency and credit and to the Central Bank within 30 days of their completion.

## **SECTION 2: Loans and refunds**

**Article 112.** Loans granted to non-residents by resident legal entities are subject to prior authorisation by BEAC.

The application for authorisation shall be accompanied by a file containing in particular:

- the loan agreement;
- the certified financial statements of the lending company over the last three financial years;
- the loan repayment schedule;;
- the act authorizing the person in charge to bind the entity,if necessary ;
- the certified financial statements of the borrowing company over the last three financial years;
- the commitment to repatriate the income from the loan and principal at the end of the operation;
- the status of external transactions over the last three financial years.

**Article 113.** Credit institutions are free to execute international transfers in respect of loans granted to non-residents, subject to the provision of the following supporting documents:

- the authorization of the Central Bank;
- the loan agreement;
- the loan repayment schedule;
- the commitment to repatriate the income from the loan and principal at the end of the operation;

**Article 114.** Loans granted to non-residents by credit institutions and related repayments are reported to the Ministry of currency and Credit and the Central Bank within 30 days of their completion.

**Article 115.** CEMAC residents shall declare to the Ministry in charge of currency and credit and the Central Bank, no later than 30 days later, the repayments received in respect of loans previously granted to non-residents.

Repayments received on loans must be repatriated and retroceded to the Central Bank.

Non-receipt of loan maturities is reported to the Ministry of currency and Credit and the Central Bank.



### **CHAPTER III: DIRECT AND PORTFOLIO INVESTMENT**

**Article 116.** Foreign direct and portfolio investment is free.

**Article 117.** Credit institutions shall execute on behalf of their customers transactions involving direct and portfolio investments under the terms and conditions laid down by Central Bank Instruction.

#### **SECTION 1: Direct inward investment**

**Article 118.** Foreign direct investments in CEMAC are declared by the investor or his agent to the Central Bank and the Ministry in charge of currency and credit at least 30 days before their completion.

**Article 119.** The terms and conditions for the execution of direct investment and portfolio operations and the clearance of related files are specified by Central Bank Instruction.

**Article 120.** Foreign direct investments in CEMAC that constitute a capital increase resulting from the reinvestment of undistributed profits are reported to the Central Bank and the Ministry in charge of currency and credit within 30 days of the completion of the operation.

**Article 121.** The transfer of the proceeds of the liquidation or transfer of foreign direct investment in CEMAC shall be declared to the Central Bank and the Ministry in charge of currency and credit at least 30 days before its completion.

**Article 122.** The realization and liquidation of foreign direct investments in CEMAC shall be declared to the Central Bank and the Ministry in charge of currency and credit within 30 days of the operation.

#### **SECTION 2: Outgoing direct investment**

**Article 123.** Direct investments by residents abroad are subject to the prior authorisation of the Central Bank, which informs the Ministry in charge of currency and credit.

**Article 124.** The terms and conditions for the execution of direct investment and portfolio operations and the clearance of related files are specified by Central Bank Instruction.

**Article 125.** Direct investments by residents abroad, which constitute an increase in capital resulting from reinvestments of undistributed profits, shall be declared to the competent authorities within 30 days of the completion of the operation.

**Article 126.** The liquidation of direct investments by residents abroad shall be declared to the Central Bank, which shall inform the Ministry in charge of currency and credit within 30 days of its completion.

**Article 127.** The reinvestment of the proceeds of the liquidation of direct investment by residents abroad shall be reported to the Central Bank and the Ministry of currency and Credit within 30 days of its completion.

**Article 128.** The liquidation proceeds that have not been reinvested abroad shall be repatriated to the country of origin within 30 days through an authorised intermediary.

### **SECTION 3 - Inbound portfolio investment**

**Article 129.** Foreign portfolio investments in CEMAC in the form of equity investments shall be declared to the Central Bank and the Ministry in charge of currency and credit at least 30 days before their completion.

**Article 130.** The terms and conditions for the execution of incoming portfolio investment operations are specified by Central Bank Instruction.

**Article 131.** Foreign portfolio investments in CEMAC that constitute a capital increase resulting from reinvestments of undistributed profits are reported to the Central Bank and the Ministry in charge of currency and credit within 30 days of their completion.

**Article 132.** The transfer of the proceeds of the transfer of foreign portfolio investments in CEMAC, amounting to more than CFAF 100 million, must be declared 30 days before its completion to the Central Bank and the Ministry in charge of currency and credit.

**Article 133.** Incoming portfolio investments in the form of the acquisition of CEMAC securities by non-residents are free.

**Article 134.** The transfer outside CEMAC by a non-resident of the proceeds of the transfer of CEMAC securities in an amount exceeding CFAF 100 million



shall be declared to the Central Bank and the Ministry in charge of currency and credit 30 days before its completion.

**Article 135.** The file to be submitted to the credit institutions for the transfer of the proceeds of the sale, interest and repayment of the capital shall include the documents justifying the ownership of the security, the amount to be transferred and the declaration of the transfer to the Central Bank and the Ministry in charge of currency and credit.

#### **SECTION 4 - Outgoing portfolio investment**

**Article 136.** Portfolio investments abroad in excess of a threshold set by Central Bank Instruction are subject to prior approval by the Central Bank.

Portfolio investments abroad, below the threshold, are reported 30 days before the transaction is carried out.

**Article 137.** An Instruction of the Central Bank sets the terms and conditions for the settlement of outgoing portfolio investments and the clearance of related files by credit institutions.

**Article 138.** Credit institutions may invest, on their own account, in securities abroad, subject to a declaration to the Central Bank, at the latest 30 days after completion of the transaction and compliance with the provisions of the banking regulations in force.

#### **TITLE V- HEDGING AGAINST CURRENCY RISK**

**Article 139.** The forward currency hedge is in the settlement currency specified in the contract.

The term of the forward currency hedging contract may not exceed the term of the contract of the underlying transaction.

Settlement at the end of the forward exchange risk hedging transaction takes place no later than 2 days after the maturity date.

**Article 140.** Forward currency hedging transactions are backed by duly justified actual economic and financial transactions.

**Article 141.** Credit institutions are authorised to carry out forward currency hedging transactions, with reporting to the BEAC, subject to compliance with the prudential provisions on the supervision of the international investment position of credit institutions laid down by COBAC.

**Article 142.** Credit institutions are required to immediately cancel foreign exchange positions that have become dormant when the underlying commercial transaction is cancelled.

**Article 143.** Each credit institution shall keep a directory of risk-free hedging transactions in which it shall keep, for each file domiciled with it, the following documents:

- the commercial contract or the loan contract;
- the domiciled import declaration;
- the company's articles of association;
- any document containing information on the hedging instrument used by the approved intermediary;
- documents attesting to all hedging transactions and their settlement by exercising or cancelling terms, with an indication of their respective dates and amounts.

## **TITLE VI - COMMUNICATION OF INFORMATION AND REPORTS OF OPERATIONS WITH THE OUTSIDE WORLD**

**Article 144.** Economic agents carrying out external operations shall communicate to the Central Bank and other competent administrative authorities all their external transactions, whether they concern goods, services, donations, income, transfers or capital. These include national treasuries, the customs administration, the tax administration, the administrative services in charge of debt management, any other government departments, individuals, approved intermediaries, international organisations and diplomatic representations and any other legal entity.

**Article 145.** Economic agents shall communicate to the Central Bank, at its request, any contract or agreement leading to an operation with the outside world.



**Article 146.** In accordance with these Regulations, the Central Bank shall define by instruction the form, nature, periodicity and media as well as other means of communicating information and periodic reports relating to external transactions.

## **TITLE VII: CONTROLS, INFRINGEMENTS AND PENALTIES**

### **CHAPTER I: CONTROLS**

**Article 147.** The Central Bank monitors the implementation of exchange rate regulation by economic agents. The Central Bank may delegate to COBAC or be assisted by the Ministry in charge of currency and credit and its related administrations for the control of certain economic agents and transactions under the conditions and procedures defined in these Regulations and by instructions from the latter.

**Article 148.** The Ministry in charge of currency and credit carries out desk and on-site inspections of the administration of posts and economic agents, other than credit institutions, microfinance institutions and exchange offices.

However, the Ministry in charge of currency and credit may request information from approved intermediaries on customer foreign exchange transactions.

**Article 149.** In accordance with its rules of procedure, COBAC carries out desk and on-site inspections of credit and microfinance institutions and bureaux de change as part of its monitoring of foreign exchange regulations.

**Article 150.** The control of sub-delegated institutions is carried out by credit institutions, which inform the Central Bank of any deficiencies found.

**Article 151.** The Ministry in charge of currency and credit and COBAC shall communicate to the Central Bank the reports or minutes relating to their controls in respect of the monitoring of exchange regulations...

**Article 152.** In the context of their supervisory tasks, the Ministry in charge of currency and credit, BEAC and COBAC may, if necessary, request the assistance of the Regional Financial Market Regulator, GABAC, CIMA or any other competent body.

## CHAPTER II: INFRINGEMENTS AND PENALTIES

### SECTION 1- Generalities

**Article 153.** The BEAC identifies exchange rate violations and imposes administrative sanctions on offending economic agents.

As part of their assistance to the Central Bank, the Ministry in charge of currency and credit and COBAC record infringements and, if necessary, impose sanctions in their respective areas of competence.

**Article 154.** Failure to comply with the provisions of these Regulations and subsequent texts exposes offenders to administrative monetary and non-monetary penalties depending on the nature of the offence and the seriousness of the failure found.

Regardless of the supervisory authority, the foreign exchange violator cannot be sanctioned twice for the same offence.

**Article 155.** The administrative penalties provided for in these Regulations shall apply, without prejudice to those provided for in the specific regulations in force.

**Article 156.** The purpose of this Instruction is to define the rules and procedures for recording infringements of exchange regulations and for implementing the related sanctions.

### SECTION 2- Administrative monetary penalties.

**Article 157.** Administrative monetary penalties consist of fines, the rate or amount of which is determined according to the nature of the offences.

The repetition of an offence of the same nature, from one period to another, may result in a doubling or tripling of the related fine.

**Article 158.** Failure to comply with the provisions of these Regulations and subsequent texts exposes offenders to the following fines, grouped by type of offence.

**Article 159.** Violations related to violations of obligations relating to the export of goods and services are punishable by the following fines:

- *Failure of the economic agent to direct the import operations of goods or services.* 10% of the transaction amount;



- *Failure of approved intermediaries to clear import files for goods or services.* 5% of the transaction amount;
- *Failure by the economic agent to comply with the arm's length principle applicable to imports of intra-group service:* 10% of the amount of the service import.
- *Non-effectiveness of the service import:* 100% of the amount involved.

**Article 160.** infringements related to violations of obligations relating to the export of goods and services are punishable by the following fines:

- *Failure of the economic agent to direct the import operations of goods or services.* 10% of the transaction amount;
- *failure of the economic agent to repatriate the revenue from the export of goods or services:* 10% of the amount of the unjustified amount, accompanied, where applicable, by the suspension of the offender's transfer operations throughout the CEMAC banking system, for a period ranging from 1 to 9 months..
- *Failure of approved intermediaries to clear import files for goods or services.* 5% of the transaction amount;
- *failure to monitor the repatriation of export revenues from goods or services by* 3% of the transaction amount;
- *repatriation of export earnings by the economic agent to a bank other than the direct debit bank:* 2% of the export amount;
- *Settlement by approved intermediaries of transactions relating to exports of goods or services without supporting documents:* 10% of the amount of the unjustified amount, accompanied, where applicable, by the suspension of the offender's transfer operations throughout the CEMAC banking system, for a period ranging from 1 to 9 months.

**Article 161.** The non-retransfer of currency by authorized intermediaries to the Central Bank constitutes an offence, punishable by a fine of 5% of the amount of currency not returned, without prejudice to the immediate effective return of the corresponding currency.

When the non-reversal of foreign currency continues for more than one day, it constitutes a separate offence for each day during which it continues. As such, each separate offence is punishable by a fine of 5% of the amount of currency not returned corresponding to each day of non-return.

**Article 162.** Failure by authorised intermediaries to comply with the thresholds applicable to external transactions constitutes an offence:

- a fine of 10% of the amount of the transaction for current transactions,
- a fine of 15% of the amount of the transaction for capital transactions.

**Article 163.** The execution of the transactions listed in this article by credit institutions without all the supporting documents constitutes an offence, punishable by the following fines:

- *Import of foreign currency by credit institutions:* 10% of the amount of imported currencies, accompanied by the return of the currencies to the Central Bank against the CFA Franc.
- *Opening or renewing a foreign currency account in CEMAC for a resident.* 10% of credit movements, with immediate return of foreign currency to the Central Bank,
- *Opening or renewing a foreign currency account in CEMAC for a resident.* 15% of credit movements, accompanied by the repatriation of the currencies corresponding to the balance of this account and their immediate return to the Central Bank;
- *capital transactions including loans, securities issues, borrowings, real estate purchases:* 20% of the transaction amount;
- *Import of gold or a specifically restricted good.* 10% of the transaction amount;

**Article 164.** The execution of the transactions listed in this article by credit institutions without all the supporting documents constitutes an offence, punishable by the following fines:

- *Opening a CFAF account in CEMAC to non-residents.* 5% of credit transactions, with immediate closure of the account;
- *Opening a foreign currency account in CEMAC to non-residents.* 5% of credit transactions, with immediate closure of the account;
- *Execution of regulations relating to current or capital transactions.* 15% of the amount of the settled transaction.

**Article 165.** Failure by approved intermediaries to comply with the procedures for operating the accounts of residents in foreign currency in the CEMAC constitutes an offence, punishable by a fine of 5% of the average credit movements, without being less than CFAF 5 million, accompanied by the



immediate closure of the account concerned and the transfer of the foreign currency corresponding to the balance of the said account to the Central Bank.

**Article 166.** Infringements related to violations of the obligations relating to the exercise of manual exchange activity below are punishable by a fine of CFAF 5 million, together with the immediate transfer of the currency to the Central Bank:

- the exercise of manual exchange activity without approval;
- The continuation of the manual exchange activity after the withdrawal of approval.

**Article 167.** Failure to comply with the specifications relating to the activity of transferring funds constitutes an offence and exposes the offender to the payment of a fine of CFAF 5 million.

**Article 168.** Infringements linked to violations of the obligations relating to manual foreign exchange and travel operations shall be punishable by the following fines:

- *unjustified refusal to sell foreign currency to customers*: 5% of the amount requested by the client;
- *late transfer of currencies by sub-delegated institutions to credit institutions*: 5% of the amount of the currencies sold late;
- *non-transfer of foreign currency by residents to authorized intermediaries*: 10% of the amount not transferred, without prejudice to its immediate transfer to the Central Bank of Currencies against CFA Franc;
- *failure by travellers to declare to customs sums, in particular cash, negotiable instruments and securities whose amount exceeds the threshold authorised at the exit and entry of the CEMAC area*: 15% of the amount exceeding the authorised threshold, accompanied by the confiscation of undeclared sums and, where applicable, the tools used to conceal them, without prejudice to the penalties provided for by the regulations relating to the fight against money laundering and terrorist financing in the CEMAC.

**Article 169.** Failure to make subsequent declarations of the transactions listed in this Article by intermediaries authorised to the competent authorities shall constitute an offence, punishable by the following fines:

- opening a non-resident account in foreign currency in CEMAC: 100 thousand CFA francs per undeclared account;

- opening of an account for non-residents in CFAF in CEMAC: 100 thousand FCFA per undeclared account;

**Article 170.** Failure to report financial or capital transactions to the competent authorities in advance constitutes an offence, punishable by a fine of 10% of the amount of the transaction.

**Article 171.** Failure by intermediaries authorised to report current transactions and financial or capital transactions to the competent authorities after the event constitutes an offence, punishable by a fine of 5% of the amount of the transaction.

**Article 172.** Failure by approved intermediaries to comply with the deadlines for periodic communication of information constitutes an offence, punishable by a fine of one million CFA francs, increased by 100,000 francs per day of delay from the date of the formal notice notified to the offender.

**Article 173.** Refusal by the economic agent to communicate to the Central Bank contracts or agreements involving operations with the outside world constitutes an offence, punishable by a fine of CFAF 5 million per day of delay, accompanied, where applicable, by the suspension of transfer operations throughout the CEMAC banking system.

**Article 174.** Offences related to obligations relating to the execution of transactions provided for in this article shall be punishable by the following fines

- *payment by approved intermediaries of the due dates for the repayment of a loan without proof of its repatriation or of the acquisitions made:* a fine equal to 15% of the amount of the transaction;
- *use of electronic payment instruments outside CEMAC for capital transactions:* a fine equal to 10% of the amount of the transaction;
- *opening of escrow or guarantee accounts by legal entities outside the books of the Central Bank:* 5% of the account balance, with the closing of the account and the return of the currencies corresponding to the said balance to the Central Bank;
- *settlement of transactions between residents through bank accounts domiciled abroad:* 20% of the amount of the settled transaction;
- *Failure by approved intermediaries to comply with the deadline for the execution of customer transaction settlements:* 3% of the transaction amount.



**Article 175.** Failure to comply with the time limit for the payment of the fines provided for in these Regulations or for the regularisation of the transactions in question shall result in the application of a penalty of 5% for each day of delay,

**Article 176.** The cumulative financial penalties may not exceed 15% of the own funds of authorised intermediaries and 50% of the own funds of other economic operators.

**Article 177.** The recovery of financial penalties by the Central Bank may be carried out according to the automatic debit procedure, subject to the prior formal notice, which has remained unsuccessful, of the offending economic agent. In this respect, the Central Bank may:

- automatically debit the accounts of approved intermediaries or economic agents domiciled in its books;
- Order authorised intermediaries to automatically debit the accounts of offending economic agents domiciled in their books.

**Article 178.** The sums recovered by way of administrative monetary penalties shall be divided equally between the Public Treasury of the State in which the offending economic agent is domiciled or established and the Central Bank.

### **SECTION 3- Non-monetary administrative penalties.**

**Article 179.** Without prejudice to the application of administrative monetary penalties, foreign exchange violators are subject to the following non-monetary administrative penalties:

- the warning;
- the blame;
- the confiscation of the offence structure ;
- the prohibition of certain transfer operations, in particular foreign currency imports, external transfers, foreign currency supply;
- the suspension of activities;
- the suspension or dismissal of the officer;
- temporary closure,
- suspension of the approval or licence
- The withdrawal of the approval or licence.

**Article 180.** In the event of serious breaches by an economic agent of exchange regulations, the Governor of the Central Bank may refer the matter directly to :

- the Central African Banking Commission for the purpose of initiating disciplinary proceedings in the case of approved intermediaries;
- The Ministry in charge of currency and credit for the suspension or withdrawal of the exchange offices' approval or the operating licence of other economic agents, if applicable.

## **TITLE VI - SPECIAL, TRANSITIONAL AND FINAL PROVISIONS**

### **CHAPTER I: SPECIAL PROVISIONS.**

#### **SECTION 1: Escrow, guarantee and related accounts.**

**Article 181.** The Central Bank may open escrow, guarantee and similar accounts denominated in foreign currency in its books to cover the commitments entered into by States and other legal entities authorised by the Board of Directors of the Central Bank to hold accounts therein, in accordance with the relevant provisions of its Statute.

The terms and conditions for opening and operating these accounts are defined by an agreement between the parties.

**Article 182.** Legal entities governed by public law may only open escrow and guarantee accounts and similar accounts in foreign currency in the books of the Central Bank.

**Article 183.** In the specific sectors, in particular the oil and gas and mining sectors, in the event of a legal or contractual obligation to set up a financial endowment or a financial fund for the rehabilitation of a site in operational terms, the Central Bank may open, on behalf of the State concerned and its contracting party or operator, where applicable, accounts in foreign currency or in CFA francs, in order to direct the related resources there.

The terms and conditions for opening and operating these accounts are defined by an agreement between the parties.



## **SECTION 2- Safeguard measures relating to the preservation of CEMAC's external accounts**

**Article 184.** This Regulation shall apply to all economic agents, without prejudice to the Treaties and Monetary Cooperation Agreements in force in CEMAC, which are of public policy nature and in particular the obligation to repatriate export earnings in full and without exception. To this end, neither the States nor the Central Bank may derogate from it in their respective regulations or by agreement.

**Article 185.** In the event of significant pressure on the external accounts, the Central Bank may take protective measures, in particular the temporary suspension of certain capital operations.

The maximum duration of these protective measures may not exceed six months. At the end of this period, if pressure persists, the Central Bank refers the matter to the Board of Directors with a view to finding appropriate solutions to resolve the crisis.

**Article 186.** Without prejudice to compliance with the Monetary Cooperation Agreements, when circumstances so require, and more particularly the marked deterioration in the situation of the Zone's external assets, the crisis or any other serious dysfunction affecting the balance of CEMAC's external accounts, the UMAC Ministerial Committee may temporarily adjust or suspend certain provisions of these Regulations in the Zone for a specified period.

To this end, the Ministerial Committee shall be convened at the request of the BEAC Board of Directors, on the proposal of the Central Bank Government, acting on its own initiative or at the request of one of the Member States.

**Article 187.** The Central Bank may, in the event of exhaustion of the common external funds of the UMAC Member States, order the transfer to it in exchange for CFA francs of external funds in Euros or other currencies held by all public or private bodies in the UMAC Member States.

The Central Bank may limit the call provided for in paragraph 1 of this article to public bodies and credit institutions only and may exercise it as a matter of priority in States whose external transactions affecting the common external position show a deficit balance.

The terms and conditions for the implementation of this article shall be specified by the BEAC Board of Directors, on a proposal from the Central Bank Government.

## **CHAPTER II: TRANSITIONAL AND FINAL PROVISIONS**

**Article 188.** CEMAC's foreign exchange regulations are available from the Central Bank, the relevant departments of the Ministry of Currency and Credit and approved intermediaries, who make them available to their users on request.

**Article 189.** The Ministry of currency and Credit, BEAC and COBAC meet at least once a year to assess the implementation of CEMAC's exchange regulations in each Member State.

The meetings are convened at the initiative of BEAC, which provides the secretariat.

**Article 190.** The BEAC may give advisory opinions on the interpretation of all or part of the provisions of these Regulations.

**Article 191.** For the application and interpretation of these Regulations, the BEAC issues Instructions, circular letters, notices and explanatory notes.

**Article 192.** These Regulations may be amended by the UMAC Ministerial Committee.

**Article 193.** Economic agents, including authorised intermediaries, shall have six months from the date of entry into force of this Regulation to comply with its provisions.

**Article 194.** This Regulation repeals Regulation No. 02/00/CEMAC/UMAC/UMAC/CM of 29 April 2000 harmonizing exchange regulations in the CEMAC Member States and all other previous texts to the contrary relating to the same subject.



**Article 195.** These Regulations are drawn up in a single copy in the English, French, Spanish and Arabic languages, the French text being authoritative in the event of any discrepancy. It shall enter into force on 1 March 2019 and shall be published in the Official Bulletin of the CEMAC. /-

Done at Yaoundé, on the 21st December 2018

**The Chairman of the Ministerial Committee,**

**Jean-Marie OGANDAGA**