

Yaounde, the 10 JUN 2019

## **Instruction N° 11/GR/2019**

### ***on the conditions and procedures for carrying out manual foreign exchange activity in the CEMAC***

#### **THE GOVERNOR**

Mindful of the Statutes of the Bank of Central African States in force;

Mindful of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on exchange rate regulation in CEMAC;

Pursuant to Article 85 of the said Regulations,

#### **HEREBY GIVES THE FOLLOWING INSTRUCTIONS**

**Article 1-** the following Instruction defines conditions and procedures for carrying out manual foreign exchange activity in the CEMAC

#### **TITLE I. - GENERAL PRINCIPLES**

**Article 2** - Manual exchange consists, whatever the medium used, in the sale or purchase of tickets or travellers' cheques, issued in foreign currencies, against delivery of the CFA Franc.

**Article 3** - The manual exchange activity is usually carried out in CEMAC only by a legal entity duly constituted and authorised.

**Article 4** - The following are authorised to carry out manual exchange activity in the CEMAC, within the limits of the regulations governing them:

- credit institutions;
- microfinance institutions;
- postal administrations;
- Exchange offices.

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**Article 5** - Credit institutions and exchange offices may approve legal entities or individuals to carry out manual exchange activities on their behalf and under their responsibility, under the conditions and procedures specified by the exchange regulations.

**Article 6** - Entities authorised to carry out manual foreign exchange activities shall keep separate accounts for each of the currencies used, highlighting the foreign exchange position reflected in the accounts in CFA francs through the mirror accounts of the exchange position counterparts.

**Article 7** - Entities authorised to carry out manual foreign exchange activity shall permanently indicate, by means of displays at their counters, in a visible, legible and easily accessible manner to customers, the rates and commissions actually charged for the various currencies.

They shall set up an adequate internal control system adapted to the volume of their activities, their size, their clientele, their geographical location and the risks to which they are exposed.

**Article 8** - Entities authorised to carry out manual foreign exchange activities shall ensure compliance with the regulations relating to the fight against money laundering, terrorist financing and proliferation. As such, they declare to the National Financial Investigation Agency of their country of establishment any suspicious transaction detected in the course of their activity.

**Article 9** - Currency exchange offices and microfinance institutions shall obtain foreign currency from credit institutions on the basis of their justified uses. To this end, when purchasing foreign currency, they shall submit a detailed statement of sales made during the six months preceding the purchase, indicating in particular information making it possible to verify the identity of the buyers, the reasons and the amount of each transaction.

## **TITLE II - PRICING OF MANUAL FOREIGN EXCHANGE TRANSACTIONS**

**Article 10** - The exchange rate applicable to manual foreign exchange transactions, to purchase and sale, is fixed to the Euro and other currencies of the Franc Zone. It corresponds to the parity legally established and may not be increased or reduced for any reason whatsoever.

For currencies other than those referred to in the first paragraph of this Article, the exchange rate at purchase or sale may not be reduced or increased by more than 5% of the daily rate fixed and communicated by the Central Bank. The methods of communicating the daily price are specified in a circular letter from the Central Bank.

**Article 11** - Approved intermediaries may charge a manual exchange fee, the rate of which may not exceed 5% excluding tax of the amount of the transaction concerned.

The manual exchange rate includes all expenses relating to the transaction concerned as well as the intermediation margin.

**Article 12** - Approved intermediaries shall display in a visible, legible and easily accessible manner to customers the conditions applicable to manual foreign exchange transactions in all their points of sale.

**Article 13** - In the event of an overrun of the ceilings referred to in Articles 10 and 11 of this Instruction, the excess proceeds generated shall automatically be paid back to the Central Bank, without prejudice to the penalties provided for by the exchange regulations.

**Article 14** - Approved intermediaries shall keep a daily register of the buying and selling prices, the reference price communicated by the Central Bank and the commission rates applied to each manual exchange transaction.

### **TITLE III - SPECIAL PROVISIONS FOR EXCHANGE OFFICES**

#### **Section 1. Conditions for the approval of exchange offices**

**Article 15** - The exercise of manual exchange activity in the form of an exchange office is subject to prior approval by the Ministry in charge of currency and credit of the country of establishment, after approval by the Central Bank.

The approval is valid for only one exchange office. However, the approved exchange office may open branches under the conditions provided for in this Instruction.

**Article 16** - Currency exchange offices are constituted as public limited companies or limited liability companies. They shall have a minimum share capital of fifty million (50,000,000) CFA francs, fully paid up.

**Article 17** - The premises of exchange offices are easily accessible to the public and exclusively dedicated to their activity. They can be identified by a sign and a signpost. The sign affixed outside the premises in a manner visible to the public shall bear the expression "CHANGE" written in large letters in the official languages of the country of establishment.

**Article 18** - Promoters of exchange offices must not have been subject to legal recovery or liquidation measures.

**Article 19** - The managers or executives of exchange offices must have at least a secondary school diploma and three (03) years of professional experience in the fields of economics, finance, banking, management, accounting and law or any related field.

**Article 20** - No one may be a manager or officer, member of the board of directors of a currency exchange office, either directly or through an intermediary:

- if he has been subject to one of the following sanctions imposed by the Central African Banking Commission (COBAC): suspension, compulsory resignation as a disciplinary measure, unless he has been rehabilitated in his favour or the period of prohibition of exercise attached to the said sanction has expired;

- if the CEMAC banking and financial system directly or indirectly carries doubtful debts on its signature or, at the discretion of the Central Bank or COBAC, on those of companies or persons under its control or direction;
- if it has benefited, by itself or through an intermediary, from the assistance of a credit institution or microfinance institution granted, in full knowledge of the facts, in violation of the institution's internal decision-making process, in deliberate transgression of the limits set by banking regulations, or if it has contributed to the deterioration of the situation of another CEMAC exchange office, credit institution or microfinance institution.

## **Section 2. Conditions for the approval of exchange offices**

**Article 21** - Legal entities whose purpose is to carry out manual exchange activities within the framework of an exchange office shall send two original copies of an application for approval to the Ministry in charge of currency and credit in their country of establishment.

**Article 22** - The application for approval shall be accompanied by a file consisting of the following documents:

*1) For the exchange office to be approved:*

- a bank certificate or notarial deed stating the amount of the minimum capital required;
- location or plan of the headquarters and any agencies;
- certificate of entry in the Trade and Personal Property Credit Register of the promoting legal entity;
- copy of the company's articles of association;
- Development plan over three (03) years.

*2) For the manager or officer:*

- certified copy of the birth certificate;
- a certified true copy of a valid official identity document (national identity card or passport);
- a valid residence permit for foreigners;
- curriculum vitae dated and signed by the person concerned;
- certified copy of diplomas;
- an extract from the manager's criminal record of less than three months' age and issued by the competent authorities of the country of his nationality and, where applicable, the country of residence;
- two passport photographs;
- dispatch of the minutes of the Board of Directors' meeting or deed appointing the person concerned as manager;
- declaration on honour by which the manager or director certifies that he or she is not subject to any of the prohibitions or incompatibilities provided for by the regulations in force.

3) *For shareholders*

**i) Individual Promoter :**

- identity document or any valid document in its place;
- an extract from the manager's criminal record of less than three months' age and issued by the competent authorities of the country of his nationality and, where applicable, the country of residence;
- A declaration on honour by the shareholder indicating the origin of the funds to be invested and certifying that they do not come from illegal activities.

**ii) A company Promoter**

- copy of the by-laws ;
- extract from the Trade and Personal Property Credit Register;
- list of the company's shareholders detailing for each of them the number of shares held, the nominal value of the shares as well as the corresponding percentage of ownership and the equivalence in voting rights;
- for any shareholder which is a company, indication of all ascending shareholders up to the identification of the persons who are final shareholders;
- Minutes of the extraordinary general meeting authorising the subscription to the share capital of the exchange office being set up.

**Article 23** - The Ministry in charge of currency and credit shall send the Central Bank, for assent, the complete file of the applicant's request for approval.

**Article 24** - Before issuing its assent, the Central Bank shall ensure that the share capital and the origin of the funds are effectively paid up, the viability of the development plan, the professional qualifications of the managers, the means implemented in terms of internal and external controls, the good repute of shareholders, holders of social shares or individual promoters and the characteristics of the commercial premises.

**Article 25** - The Central Bank has two (02) months from the receipt of the complete application for approval to issue its assent. After this period, the assent shall be deemed to have been given.

**Article 26** - In the context of the examination of the application for approval, the Ministry in charge of currency and credit and the Central Bank may request any necessary additional information from the applicant.

The request for additional information suspends the time limit for examining the file provided for in Article 25 of this Instruction until it is received.

**Article 27** - The Ministry in charge of currency and credit shall approve the exchange office with the assent of the Central Bank.

The exchange office's approval is notified to its promoter, with a copy to the Central Bank and COBAC.

**Article 28** - The exchange office has a maximum period of one (01) year from the date of notification of the approval to start its activities, under penalty of lapse.

The approved exchange office shall inform the Ministry in charge of currency and credit and the Central Bank of the effective start of its activities by sending them any information likely to establish it, in particular the statement of transactions.

**Article 29** - The Ministry in charge of currency and credit shall draw up and publish annually a list of approved exchange offices and communicate it to the Central Bank and COBAC.

#### **Section 4. Operations of exchange offices**

**Article 30** - The approval number of the exchange office is mentioned in all its correspondence and appears on its sign.

**Article 31** - The exchange offices carry out purchases and sales of foreign currencies with customers in accordance with the exchange regulations in the CEMAC. They sell the currencies purchased from customers to credit institutions.

**Article 32** - The exchange offices shall record each transaction with customers on a slip in duplicate. One copy is issued to the client and the other is kept by the exchange office, with an attached copy of the client's identity document and all supporting documents for the transaction.

The exchange slips are numbered and follow each other in chronological order. They shall indicate in particular the identity of the client, the reason for the transaction, the currency concerned, the amounts exchanged, the rates and commissions applied by the exchange office.

**Article 33** - Currency exchange offices shall have an accounting organisation and written operating rules to ensure that their activities are carried out in compliance with CEMAC exchange regulations.

The accounting organisation and written operating rules are adapted to the size of the exchange office and the nature of its clientele. The accounting standard used by exchange offices is specified in a circular letter from the Central Bank.

**Article 34** - The exchange offices shall keep a register of transactions in which they shall record, at the end of each day, the information contained in the exchange slips.

The register of transactions may be kept in dematerialised form provided that the exchange office uses an information system that guarantees the security and reliability of the data.

**Article 35** - The exchange offices shall keep, in accordance with the legal provisions in force, all information and supporting documents relating to their operations. They shall keep at the disposal of the BEAC and COBAC all their accounting records and operating documents.

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## Section 5. Mandated Currency Exchange Agents

**Article 36** - Currency exchange offices are authorised to recruit authorised agents to carry out, on their behalf and under their responsibility, manual currency exchange operations outside their agencies.

**Article 37** - The acquisition of the status of authorised stockbroker is subject to the conclusion of a manual stockbroker's agreement between the eligible person and the exchange office. For this purpose, the person shall provide the exchange office with the following documents:

- a certified true copy of an official document attesting to his or her valid identity, in particular the national identity card, passport and residence card;
- an extract from the manager's criminal record of less than three months' age and issued by the competent authorities of the country of his nationality and, where applicable, the country of residence;
- two passport photographs;

In addition, the file includes:

- the receipt of a bank guarantee deposit in the amount of CFAF 2, 000,000;
- a letter of commitment stating that the exchange office is responsible for the acts performed by the authorised agent in the course of his activity;
- a copy of the contract between the authorised agent and the exchange office concerned;
- An indication of the city and location in which the agent is expected to operate.

**Article 38** - The manual exchange mandate is *intuitu personae*. It may not be assigned.

**Article 39** - The exchange offices shall communicate to the Central Bank on a quarterly basis the list of their authorised exchange agents, accompanied by their manual exchange mandate contracts.

**Article 40** - In the context of the functioning of authorised agents, the principal exchange office shall take measures relating to their identification, security and the execution of their operations.

*a) Provisions relating to the identification of authorised agents.*

The principal exchange office shall make available to their authorised change agents outfits marked on the back and front, in large letters, with the words "Agent de change" and the company name.

Authorised stockbrokers shall be clearly identifiable by wearing uniforms meeting the characteristics listed in this Article and badges issued by the principal exchange offices.

*b) Provisions relating to the security of authorised stockbrokers*

The authorised stockbroker pays the currency to the principal exchange office as soon as its cash reaches the equivalent of CFAF 5 million, under penalty of termination of his manual stockbroker's contract.

*c) Provisions relating to the execution of operations*

Foreign exchange transactions carried out by authorised agents shall comply with the same conditions as those carried out at the counters of exchange office; in particular:

- the filling in of a slip provided by the exchange office;
- proof of the origin of the funds;
- compliance with the currency allocation thresholds provided for in foreign exchange regulations;
- The justification for the operation.

In addition, the stockbroker identifies the customer and keeps a copy of the identity document, to be attached to the duplicate of the transaction form.

The authorised stockbroker carries out daily reporting of purchases and sales of foreign currency to customers at the principal stockbroker's office.

## **Section 6. Changes in the situation of the exchange offices**

**Article 41** - Changes likely to significantly affect the situation of the exchange offices are authorised in advance by the Central Bank in order to ensure that they are not of such a nature as to jeopardise their sustainability.

The following are considered significant changes in particular:

- the change, extension or restriction of authorized activities;
- the change of company name;
- the merger or demerger;
- the transfer of the business;
- the partial disposal of fixed assets representing at least 30% of the exchange office's balance sheet total;
- the modification of the amount of the share capital;
- the acquisition or sale of interests exceeding 5% of the share capital;
- the acquisition or disposal of interests resulting in a change of control;
- the change of manager or officer.

**Article 42** - The exchange office which intends to make an amendment within the meaning of Article 41 of this Instruction shall send the Central Bank a request for authorisation accompanied by a file containing the following documents:

- copy of the approval of the applicant's exchange office;
- copy of the minutes of the legislative body of the exchange office that decided on the amendment;
- place or location plan;



- Any other information relating to the proposed amendment.

**Article 43** - From the date of receipt of the complete file, the Central Bank has a period of one (01) month to decide and notify its decision to the applicant, with a copy to the Ministry in charge of currency and credit and to COBAC. The absence of a decision at the end of this period shall constitute prior authorization by the Central Bank.

If the application for prior authorisation is incomplete, the Central Bank shall inform the applicant in writing and invite him to provide the missing information or documents as soon as possible.

**Article 44** - The Central Bank may reject any request for prior authorisation relating to an amendment likely to induce a change of control, when it considers that the control of the exchange office is likely to be hindered by the existence of immunity from jurisdiction for the benefit of the future shareholder(s).

**Article 45** - Any modification of the situation of an exchange office, carried out in violation of the provisions of this Instruction, exposes the offender and his managers to the sanctions provided for by the exchange regulations.

**Article 46** - In the event of cessation of activities at the initiative of the exchange office, the latter shall immediately inform the Ministry in charge of currency and credit, the Central Bank and COBAC.

The cessation of activities automatically leads to the withdrawal of the approval of the exchange office and the manager as well as its liquidation in accordance with the rules of common law.

## **Section 7. Control of exchange offices**

**Article 47** - COBAC exercises disciplinary power over exchange offices. As such, it carries out periodic inspections, particularly on the spot, to ensure that they comply with the regulations governing manual foreign exchange activity.

**Article 48** - The Ministry in charge of currency and credit is responsible for the administrative control of exchange offices, which consists in ensuring in particular that:

- the existence of the approval of exchange offices which carry out manual exchange activity;
- the existence of the authorization provided for in Article 42 of this Instruction;
- the display by approved exchange offices of their approval number;
- the authorisation of managers to manage a foreign exchange office
- the existence of management mandates for the authorised agents
- The wearing by authorised agents of clothing and badges allowing their identification.

**Article 49** - Exchange offices shall submit to the controls provided for in this Instruction. To this end, they shall make available to the Ministry in charge of currency and credit, the

Central Bank and COBAC and, where appropriate, to any other person duly authorised under the laws and regulations, the information and documents necessary for their proper conduct.

**Article 50** - The Central Bank and COBAC shall draw up a multiannual control plan for CEMAC exchange offices, which shall be updated at the beginning of each calendar year.

## **Section 8. Prohibitions and Inconsistencies**

**Article 51** - It is prohibited for any entity other than a currency exchange office governed by exchange regulations to use a name, a company name, an advertisement, any written document or, in general, expressions suggesting that it is approved as such or to create confusion on this subject.

**Article 52** - Exchange offices are prohibited from carrying out any activity other than manual exchange, unless authorised by the competent authority for related activities.

**Article 53** - Any person appointed to replace a manager or director of a currency exchange office and who has not yet received prior authorisation from the BEAC may not bind the currency exchange office by his signature, under penalty of sanctions provided for by the regulations in force.

The exchange office concerned is also liable to any other sanction provided for by the regulations in force.

**Article 54** - Any person working in the banking sector or any person holding high political, elective or similar positions likely to compromise the exercise of freedom of judgment or conferring immunity from jurisdiction may not exercise the functions of member of the board of directors or manager of an exchange office.

## **Section 9. Miscellaneous and final provisions**

**Article 55** - The Ministry in charge of currency and credit, the Central Bank and COBAC shall communicate information to each other for the purpose of effective control of manual exchange activity.

**Article 56** - The exchange offices shall send monthly to the Ministry in charge of currency and credit, the Central Bank and COBAC a global report on the transactions of purchase and sale of foreign currency carried out with credit institutions as well as that relating to transactions carried out with customers, in accordance with the models reproduced in the annexes to this Instruction.

The global reports of foreign exchange transactions shall be sent to the Ministry in charge of currency and credit, the Central Bank and COBAC no later than fifteen (15) days after the beginning of the following month.

**Article 57** - This Instruction may be amended by the Central Bank. It can be specified by means of its Circular Letter.

**Article 58** - Any failure to comply with the provisions of this Instruction exposes the offender to the penalties provided for by the regulations in force.

**Article 59** - This Instruction, which repeals any previous provision relating to the same subject matter, shall enter into force on the date of its signature.

**ABBAS MAHAMAT TOLLI**

MINISTRY OF .....

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ANNEX 1:

**APPLICATION FILE FOR APPROVAL OF AN EXCHANGE OFFICE**

The application file for approval of an exchange office is made up as follows:

**Presentation of the company and shareholders**

*The application file for approval of an exchange office is made up as follows:*

**I. Presentation of the company and shareholders**

✓ **Identification of the exchange office to be approved:**

<b>1. Company name</b>	
<b>2. Trade name</b>	
<b>3. Legal form</b>	
<b>4. Head Office Address</b>	
<b>5. Tax identification</b>	
<b>6. Date of creation</b>	

✓ **Information relating to the share capital**

<b>7. Amount of Capital</b>	
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✓ **Information to be provided for the manager**

<b>1. Name and First Name</b>	
<b>2. Date and place of birth</b>	
<b>3. Nationality</b>	
<b>4. Address</b>	
<b>5. Telephone number</b>	
<b>6. E-mail address</b>	

✓ **Contact person in the company**

<b>Name/First name</b>		<b>Title/Function</b>	
<b>Telephone number</b>		<b>E-mail address</b>	
<b>Date</b>		<b>Signature</b>	

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## II. List of supporting documents<sup>1</sup>

Document	Yes/No
<b>exchange office to be approved:</b>	
1. a bank certificate or notarial deed stating the amount of the minimum capital required;	
2. place or location plan;	
3. Certificate of registration from the Trade and Personal Property Credit Register;	
4. copy of the company's statutes , if applicable;	
5. Development plan over three (03) years.	
6.	
7.	
<b>Shareholder or Individual Partner</b>	
8. identity documents or any valid document in its place;	
9. Extract of criminal record dating less than three months for each of the shareholders or partners	
<b>Shareholder legal entity</b>	
10. Copy of the Statutes	
11. extract from the Trade and Personal Property Credit Register;	
12. Shareholder structure	
13.	
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20.	
21.	

*The documents referred to above shall be attached to the request for approval sent to the Minister in charge of currency and credit.*

<sup>1</sup> *The request for approval shall specify, where appropriate, the number and location of the branch offices planned to be opened in the same locality and/or in the other localities of the Member State concerned.*

*ANNEX 2: SUMMARY STATEMENT OF PURCHASES AND SALES OF FOREIGN CURRENCIES TO CUSTOMERS*

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*ANNEX 3 : GLOBAL REPORT ON THE PURCHASE AND SALE OF FOREIGN  
CURRENCY AT CREDIT INSTITUTIONS*

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