

-----  
*The Governor*

**INSTRUCTION N° 003/GR/2022**  
**Specifying the conditions and modalities for opening and operating foreign  
currency accounts of resident extractive companies.**

**The Governor,**

Having regard to the Statutes of BEAC in force;

Having regard to Regulation N° 02/18/CEMAC/UMAC/CM du f 21 December 2018 on  
the regulation of foreign exchange in CEMAC;

Having regard to Regulation No. 01/21/CEMAC/UMAC/CM of 23 December 2021 on  
the modalities of implementation of certain provisions of the foreign exchange  
regulations by resident extractive companies;

Having regard to Instruction No. 005/GR/2019 of 10 June 2019 on the conditions and  
modalities of operation of foreign currency accounts of residents and non-residents;

Considering the specificity and complexity of activities in the CEMAC extractive sector;

Considering the need for a full and harmonious application of exchange regulations in  
conformity with the monetary cooperation agreements in force,

**Issues the following Instruction:**

**Section 1: General provisions**

**Article 1.** - The purpose of this Instruction is to specify the specific rules and procedures  
applicable to the opening, regularisation and operation of foreign currency accounts of  
resident extractive companies.

Extractive companies are defined in the Regulation on the implementation of certain  
provisions of the foreign exchange regulations by resident extractive companies.



**Article 2.** - This Instruction applies to extractive companies instead of Instruction n°005/GR/2019 of 10 June 2019 on the terms and conditions for opening and operating foreign currency accounts of residents and non-residents.

Only the provisions of this Instruction relating to foreign currency accounts in CEMAC shall apply to transporters and subcontractors of resident extractive companies as defined by this Instruction in Article 3, subject to its provisions in Article 10.

**Article 3.** - Within the meaning of this Instruction:

- Transporters means companies transporting hydrocarbons or minerals from third countries by pipeline, as well as companies or undertakings operating, on a principal basis, pipelines, installations or other equipment or any means of transporting hydrocarbons and minerals from the production sites of extractive companies to processing and transformation plants or to an export terminal. The activity is considered principal when the turnover resulting from the transport of hydrocarbons or minerals exceeds 50% of the transporter's total turnover;
- subcontractors are resident enterprises or companies whose main activity is related to the execution of a contract or agreement with one or more extractive industries relating to the fulfilment of the corporate purpose or the execution of a contract of an extractive industry company. The activity is considered principal when the turnover resulting from the performance of the contractual services with the company exceeds 50% of the total turnover of the subcontractor.

In the context of this Instruction, extractive companies, subcontractors and transporters are referred to together as "extractive sector companies".

**Article 4.** - Companies in the extractive sector may open foreign currency accounts in CEMAC, after prior authorisation by the Central Bank, under the terms and conditions set out in this Instruction.

Only extractive companies may open foreign currency accounts outside CEMAC, after prior authorisation by the Central Bank, under the terms and conditions set out in this Instruction.

## **Section 2: Opening foreign currency accounts**

**Article 5.** - Prior to opening a foreign exchange account within or outside CEMAC, the extractive sector company must submit a request for prior authorisation to the Central



Services of the Central Bank in Yaoundé, Republic of Cameroon, stating the following information:

- name of the applicant company;
- account currency;
- motivation of the application;
- transactions that may be debited or credited to the currency account.

The application for prior authorisation shall also be accompanied by the following documents:

- an extract from the Trade and Personal Property Credit Register dated less than 3 months ago;
- the Articles of Association of the applicant company and, where appropriate, those of the parent company;
- the identity of the applicant company's directors and principal shareholders;
- the agreements signed with the State and, where applicable, the joint operating agreement with one or more partners;
- the financial statements for the applicant company's last completed financial year;
- where applicable, external loan contracts and related repayment schedules.

**Article 6.** - The prior authorisation application file is transmitted electronically to the Central Bank's Central Services, which acknowledge receipt.

If the Central Bank does not receive any request for additional information within 14 days of its receipt, the application for authorisation shall be deemed complete.

**Article 7.** - The Central Bank's authorisation is notified to the applicant extractive sector company within thirty (30) days of the acknowledgement of receipt of the complete file, within the meaning of paragraph 2 of Article 6 of this Instruction.

If the necessary information was not provided at the time of the application for authorisation, BEAC may, in the context of the examination of the file, request the applicant to produce the missing information.

Any request for additional information by the Central Bank suspends the processing time of the file by 30 days until the date of actual transmission of the requested information.



At the end of the thirty (30) day period provided for in the first paragraph of this article, the Central Bank's failure to reply shall constitute authorisation to open the foreign currency account. The applicant company in the extractive sector takes note, by correspondence addressed to the Central Bank, of the tacit authorisation to open the foreign currency account.

**Article 8.** - In the event of a formal response within the thirty (30) day period provided for in Article 7 of this Instruction, the Central Bank's reasoned decision shall be notified to the requesting extractive sector undertaking by any means in writing.

Where the response is favourable, the notification from the Central Bank specifies the operations that the extractive sector company is authorised to carry out on the authorised currency account.

Any new category of operations on the authorised account shall be notified to the Central Bank and shall be deemed approved if they comply with the foreign exchange regulations in force.

**Article 9.** - Any new category of operations on an authorised foreign currency account, admitted by the Central Bank in favour of a company in the extractive sector, is automatically extended to all foreign currency accounts of the same nature in the sector concerned.

**Article 10.** - The authorisation of the foreign currency account is valid for the duration of the purpose of the account, subject to compliance with the periodic reporting obligations to the Central Bank on the part of the extractive sector company.

### **Section 3 – Transitional provisions for the regularisation of existing foreign currency accounts**

**Article 11.** - Exceptionally, the regularisation of foreign currency accounts of companies in the extractive sector opened inside or outside CEMAC, without prior authorisation from the Central Bank, is authorised before the entry into force of this Instruction.

Within the meaning of this Instruction, regularisation consists in sending to the Central Bank's Central Services, no later than 31 January 2022, a complete file including, in addition to the request for regularisation and the history of the account to be regularised since it was opened or over the last twelve (12) months when the account was opened less than twelve (12) months ago, the information and documents required for the opening of foreign currency accounts as provided for in Article 4 of this Instruction.



**Article 12.** - During the entire period of examination of the regularisation file by the Central Bank, the foreign currency accounts to be regularised of the applicant extractive company are deemed authorised.

**Article 13.** - Extractive sector companies holding foreign currency accounts to be regularised have a period of ten (10) months from 31 January 2022 to fully comply with the provisions of this Instruction.

During the period provided for in the first paragraph of this Article, foreign currency accounts to be regularised for which the Central Bank has been duly notified shall continue to operate, without exposing their holders to sanctions for non-compliance with foreign exchange regulations, without prejudice to the application of Article 15 of this Instruction.

**Article 14.** - The file for the regularisation of a foreign currency account is processed by the Central Bank under the same conditions of deadlines as the request for prior authorisation to open a foreign currency account provided for in Article 7 of this Instruction.

**Article 15.** - In the event that BEAC observes operations that do not comply with foreign exchange regulations prior to the date of entry into force of this Instruction, a period of three (03) months is granted to the extractive sector companies concerned to take the necessary corrective action. This period may be extended upon a reasoned request from the resident extractive sector company to the Central Bank.

**Article 16.** - The sanctions provided for by the foreign exchange regulations in force are not applicable to transactions carried out in foreign currency accounts existing prior to the date of entry into force of this Instruction, subject to the ten (10) month compliance period provided for therein.

#### **Section 4: How foreign currency accounts work**

**Article 17.** - Foreign currency accounts are intended for transactions necessary for the activities of companies in the extractive sector resulting from legal or contractual obligations. They may also receive any other transaction essential to their activity in accordance with foreign exchange regulations.

**Article 18.** - Any new category of operations on an authorised foreign currency account admitted by the Central Bank in favour of a company in the extractive sector is automatically extended to all foreign currency accounts of other companies in the extractive sector, as provided for in Article 8 of this Instruction.



**Article 19.** - Foreign currency accounts in CEMAC may be opened in any Credit Institution in CEMAC, regardless of the country of establishment of the extractive sector company concerned.

Operations on foreign currency accounts in CEMAC are carried out freely, subject to verification by the Credit Institutions of their compliance with the regulations in force, in particular the provisions relating to the Decisions authorising the opening of such accounts.

Transactions between foreign currency accounts in CEMAC of companies in the extractive sector are free, subject to the obligation of periodic declaration to the Central Bank.

Subject to their conversion into CFA Francs, cash withdrawals from accounts opened in CEMAC cannot be made to cover local needs relating to local tax obligations and social contributions, as well as any other local contribution provided for in oil and mining contracts.

All transactions on foreign currency accounts in CEMAC are subject to periodic monthly reporting to the Central Bank by Credit Institutions.

**Article 20.** - Foreign currency accounts in CEMAC are supplied with currency from:

- export earnings;
- foreign currency financing operations carried out by the extractive sector company, including loans, cash pooling operations and capital contributions;
- interest and related investment income;
- any other revenue or payment.

Foreign currency accounts in CEMAC can be debited freely for:

- the total or partial settlement of foreign trade operations inherent in the activity of the extractive sector company and any other authorised operation;
- the payment of interest and repayment of loans taken out for the purposes of the extractive sector company's activities;
- cash pooling operations in CEMAC;
- fund-raising operations;
- dividend payments and distributions of any other nature;
- investment operations carried out in compliance with foreign exchange regulations;
- payments to an account in CFA francs, including for local needs related to local tax obligations and social contributions;
- the crediting of a foreign currency account in CEMAC.



- any other operation necessary for the needs of their activities, with the exception of operations prohibited by exchange regulations.

The performance of cash pooling operations outside CEMAC from foreign currency accounts opened in CEMAC is subject to the prior authorisation of the Central Bank.

**Article 21.-** The fees and commissions levied directly by Credit Institutions on each operation carried out from the foreign currency accounts of companies in the extractive sector in CEMAC may not exceed the amount of one hundred thousand (100 000) CFA francs.

**Article 22. -** Foreign currency accounts outside CEMAC cannot be used to settle transactions between resident extractive companies, in accordance with Article 30 of Regulation No. 02/18/CEMAC/UMAC/CM of 21 December 2018 on foreign exchange regulations in CEMAC, except for the sole purpose of making calls for funds.

**Article 23.-** Foreign currency accounts outside CEMAC are supplied with currency from:

- the extractive company's export earnings;
- foreign currency financing operations carried out by the extractive company, including loans, cash pooling operations and capital contributions;
- interest and related investment income;
- any other revenue or payment.

Foreign currency accounts outside CEMAC can be debited freely, especially for:

- the total or partial settlement of foreign trade operations inherent to the activity of the extractive company as well as any other authorised operation;
- the payment of interest and the repayment of loans taken out for the needs of its activities;
- cash pooling operations of the extractive company;
- dividend payments and distributions of any other nature to be made by the extractive company;
- investment operations carried out in compliance with foreign exchange regulations;
- calls for funds;
- the crediting of a foreign currency account in CEMAC;
- the crediting of another foreign currency account outside the CEMAC of the same holder;
- any other operation necessary for the needs of their activities, with the exception of operations prohibited by the exchange regulations in force.

All debit and credit transactions are subject to periodic monthly reporting by the extractive companies concerned to the Central Bank.



**Article 24.** - In addition to the periodic declaration of extractive companies provided for in paragraph 5 of Article 19 of this Instruction, the Central Bank may, at any time, request from the holder of the foreign currency account information relating to the operations carried out on the said account.

### **Section 5: Miscellaneous and final provisions**

**Article 25.** - Companies in the extractive sector shall transmit to the Central Bank periodic declarations on the operations carried out on foreign currency accounts, as provided for in this Instruction, in accordance with the modalities and format specified in a Circular Letter from the Governor of the Central Bank.

**Article 26.** - Extractive companies shall communicate to the Central Bank, on a quarterly basis, information on transactions related to payments in kind to residents by production sharing, allowing in particular the identification of the recipient party or parties.

**Article 27.** - In case of closure of a foreign currency account outside CEMAC, the credit balance shall be repatriated within thirty (30) days in a CEMAC Member State and returned to BEAC with the corresponding value in CFA francs. The credit balance may also be transferred to another active currency account, inside or outside CEMAC, duly authorised by the Central Bank.

In case of closure of a foreign currency account in CEMAC, the credit balance shall be transferred either to a CFA Franc account with transfer of the corresponding currencies to the Credit Institution holding the account and retrocession of these currencies to the Central Bank, or to another foreign currency account in CEMAC, subject to information of the Central Bank.

**Article 28.** - Periodic controls are carried out by the Central Bank to ensure compliance with the provisions of this Instruction.

**Article 29.** - Any failure to comply with this Instruction shall be recorded and sanctioned in accordance with the provisions of the foreign exchange regulations in force.

**Article 30.** - This Instruction may be amended by the Central Bank. It may be specified in a Circular Letter from the Governor of the Central Bank.

**Article 31.** - This Instruction cancels and replaces Instruction n°006/GR/2021 of 13 December 2021 specifying the conditions and modalities for opening and operating foreign currency accounts of resident extractive companies. It enters into force on the date of signature.



**ABBAS MAHAMAT TOLLI**