

## GOVERNMENT OF ZAMBIA

STATUTORY INSTRUMENT NO. 44 OF 2009

**The Banking and Financial Services Act**  
(Laws, Volume 21, Cap. 387)**The Banking and Financial Services (Restriction on Kwacha Lending to Non-Residents) Regulations, 2009**

## ARRANGEMENT OF REGULATIONS

*Regulation*

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IN EXERCISE of the powers contained in section *one hundred and twenty-four* of the Banking and Financial Services Act, and on the recommendation of the Bank of Zambia, the following Regulations are hereby made:

1. These Regulations may be cited as the Banking and Financial Services (Restriction on Kwacha Lending to Non-Residents) Regulations, 2009. Title

2. In these Regulations, unless the context otherwise requires— Interpretation

“financial service provider” has the meaning assigned to it in the Act;

“kwacha” means the Zambian kwacha;

“non-resident” means a financial or non financial institution, or a natural person, that is not domiciled in Zambia; and

“foreign exchange derivative transaction” means a financial transaction, or a similar transaction in whatever form or name, whose value is derived from price changes in one or more underlying assets.

3. (1) A financial service provider shall not extend a loan or any other form of credit, or provide any source of kwacha funding to a non-resident for a period of less than one year. Restriction on lending to non-residents

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*Copies of this Statutory Instrument can be obtained from the Government Printer,  
P.O. Box 30136, 10101 Lusaka. Price K3,000 each.*

(2) Notwithstanding the generality of sub-regulation (1), a financial service provider shall not—

- (a) provide a loan in kwacha to a non resident for a maturity period of less than one year;
- (b) provide any intraday overdraft to a non-resident;
- (c) place any kwacha in the form of deposits, or other similar means, in a non-resident institution, for a period of less than one year:

Provided that where options are embedded in the deposits, the options may be exercised within a period of not less than one year;

- (d) invest in kwacha denominated assets issued by a non resident, except for those assets with residue maturity of at least one year at the time of investment;
- (e) unless proof of underlying economic activity is shown, engage in foreign exchange derivative transactions, including but not limited to swaps and forward transactions, in which one of the currencies is the kwacha; or
- (f) transfer any kwacha to a non resident without any underlying economic activities in Zambia, except for settlement of non resident accounts with local financial institutions related to domestic economic activities such as equity participation, securities transactions, foreign debt repayment in kwacha, import letters of credit in kwacha, goods and services purchased in Zambia, and non residents living costs in Zambia.

Exemption

4. Regulation 3 does not apply to following transactions:

- (a) any cross currency swap forward or other derivative transaction in which the kwacha is not of the currencies; and
- (b) investing in Zambia kwacha denominated assets issued by a non resident with a specific activity.

Request for information

5. The Bank of Zambia may, for purposes of these Regulations, request a financial service provider to furnish details of any of its operations concerning a non-resident borrowing and lending in the domestic kwacha market.

6. (1) A person who —

Offences

- (a) contravenes these Regulations;
- (b) without reasonable excuse, fails or refuses to provide information, or produce any document, record or report required under these Regulations; or
- (c) makes or causes to be made, an unauthorised entry, alteration or erasure in any document, record or report of financial service provider, or destroys, mutilates or conceals any document, record or report relating to a financial service provider;

commits an offence and is liable, upon conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(2) Where an offence under these Regulations is committed by a body corporate, every director or senior officer of the body corporate shall be liable, upon conviction, as if the director or senior officer personally committed the offence, unless the director or senior officer proves to the satisfaction of the court that the act constituting the offence was done without the knowledge, consent or connivance of the director or senior officer or that the director or senior officer took reasonable steps to prevent the commission of the offence.

7. (1) A financial service provider shall, within thirty days from the publication of these Regulations, inform the Bank of Zambia of the financial transactions entered into before the commencement of these Regulations.

Transitional provision

(2) The Bank of Zambia shall, upon receipt of any report made under sub regulation (1), determine, on a case by case basis, whether or not to exempt the financial transactions from the application of these Regulations for purposes of completion of the transactions.

LUSAKA

16th July, 2009

[MFB.103/16/5]

S. MUSOKOTWANE,  
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