



Notice 13/ 2013 - Invisible items of trade operations

The Angolan National Bank (“BNA”), in line with a new economic cycle, in order to achieve more efficiency and flexibility in the performance of external payments and transfers and given the need to simplify the procedures in respect of invisible items of trade operations set forth by Decree 21/98, of July 24, has recently approved the Notice 13/2013, of 31 of July, published in the Angolan Official Gazette, Series I, no. 149, of August 6 (hereinafter, “Notice 13/2013”).

Notice 13/2013 contains the procedures and rules to be followed in relation to acts, contracts and transactions regarding travels, current account transactions, as well as payments of services and income between Angola and outside Angola and between residents and non-residents.

The provisions set out in the Notice 13/2013 also refer to the registration, approval and supervision procedures related to acts, contracts and transactions ruled by this Notice, procedures for clients’ identification and evidentiary requirements for the completion of invisible items of trade operations.

It should be noted that Notice 13/2013 is not applicable to the invisible items of trade operations performed by the entities covered by Law 2/12, of January 13, the Foreign Exchange Act Applicable to the Oil Industry. Notice 13/2013 is also not applicable to the transactions performed by non-residents related with profit and dividend transfers resulting from financial and capital applications. Game prizes, social security and pension funds transfers are also excluded and covered by specific regulations.

According to Notice 13/2013 invisible items of trade operations are “*any current account transactions that are not of goods, in particular those related to travels and current transfers, between Angola and outside Angola and between residents and non-residents, which maturity date does not exceed 360 days*”.

For the purposes of Notice 13/2013, invisible items of trade operations are divided between: (a) travels and transfers and (b) services and income. Invisible items of trade operations may originate in a request from a resident or a non-resident.

In order to achieve more efficiency and flexibility in the performance of external payments the Angolan National Bank (“BNA”) has recently approved the Notice 13/2013, of 31 of July

In accordance with existing foreign-exchange legislation, the financial intermediation principle prevails and, therefore, the invisible items of trade operations can only be executed through a financial institution duly authorized by BNA to carry out foreign-exchange trade. Financial institutions may, without BNA's prior authorization, sell foreign currency and execute external payments or transfers as a result of, in particular, invoices regarding contracts previously approved by BNA. Payments or transfers of services resulting from contracts in a total amount up to AOA 100,000,000.00 (or the equivalent in other currency), or up to AOA 300.000.000,00 (or the equivalent in other currency), in the case of orders submitted by oil industry service providers duly registered and/or with a programme-contract in place with the Ministry of Petroleum, may also be performed without BNA's prior authorization. Conversely,

operations related with acts or contracts in amounts above said thresholds are subject to prior authorization from BNA. Also, transfers related to financial and capital applications and reimbursement of payments resulting from the cancellation of contracts or undue payments are subject to prior authorization of BNA.

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The principle of mandatory registration of foreign exchange operations is a key aspect of Notice 13/2013. Financial institutions must register the contracts and transactions on the “integrated foreign operations system” (also known as “SINOC”) before the execution of any operation related with the same or for the purposes of obtaining an approval from the BNA when the relevant operation is subject to prior authorization. BNA should notify the relevant financial institution of the approval,

denial or, should it deem necessary, request for additional information within 8 business days starting from the submission date of the application to the SINOC (or, where applicable, counting from the date additional information was received). After the end of that period and in the absence of a response by BNA, the financial institution is allowed to execute the operation, provided that all registration requirements are being complied with as verified by the financial institution which is liable for its correct execution.

Without prejudice of the mandatory register with SINOC, acts and contracts related to services provided by residents to non-residents and the operations related to the income arising from them are not subject to prior authorization from the BN. Moreover, the operations made by residents outside Angola related to income and repatriation of profits from financial and capital applications are not subject to prior authorization from BNA.

Furthermore, Notice 13/2013 establishes that contracts used as support for invisible items of trade should clearly express their purpose, the deadline, the rights and obligations of the parties and the price. On the other hand, said contracts cannot contain clauses that reflect a manifest imbalance between the liabilities of the parties or clauses that establish an automatic renewal of the contract. This Notice also states that the contract price cannot be calculated based on percentages of turnover,

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income, sales or purchases, except for the cases where the international commercial practice determines it. The contracts that, beside invisible items of trade operations, include additional elements, such as goods and others relevant for calculating the global price of the contract must indicate separately the value of said additional elements. Finally, the use of Portuguese language (or the presentation of a duly legalized translation into Portuguese language) is mandatory for contracts used in support of invisible items of trade operations.

Notice 13/2013 comes into force on 6 September 2013. The Orders 1/06 of January 10 and 1/10 of March 16 (concerning invisible items of trade transactions) will be revoked as of the date of entry into force of said Notice 13/2013.

Contact

Catarina Levy Osório
catarinaosorio@angolalegalcircle.com

ANGOLA
LEGAL
CIRCLE
ADVOGADOS

Edifício Escom, Av. Marechal Brós Tito,
nº 35/37 Piso 11º, fracção C
Luanda – Angola
Tel.: +244 222 441 935 / 926 877 476
Fax: +244 222 449 620
geral@angolalegalcircle.com
www.angolalegalcircle.com



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