

REGULATIONS
2007

**REGULATION 07-01 OF MOHARAM 1428 CORRESPONDING TO
FEBRUARY 03RD, 1428 RELATING TO THE RULES APPLICABLE TO
EXTERNAL CURRENT TRANSACTIONS AND FOREIGN CURRENCY
ACCOUNTS**

The Governor of the Bank of Algeria,

Whereas Order 03-11 of Jomada Ethania 27th, 1424 corresponding to August 26th, 2003 relating to Money and Credit, namely its article 62, item m;

Whereas Order 75-59 of September 26th, 1975 relating to the Commercial Code, as amended and complemented;

Whereas the Budget Law of 1985 , amended in article 156;

Whereas Order 96-09 of Chaâbane 1416 corresponding to January 10th, 1996 relating to leasing;

Whereas Order 96-22 of Safar 23rd, 1417 corresponding to July 09th, 1996 relating to repression for infringement of the law and regulations relating to foreign exchange and movement of money from abroad and towards foreign countries , as amended and complemented;

Whereas Order 01-03 of Aouel Jomada Ethania, 1422, corresponding to August 20th, 2001 relating to investments development

Whereas Order 98-10 of Rabie 29th, Ethani 1419, corresponding to August 22nd, 1998 amending and completing Law N° 79-07 of July 21st, 1979, relating to the Customs Code, as amended and complemented;

Whereas Order 03-04 of Jomada El Oula 19th, 1424, corresponding to July 19th, 2003 relating to the general rules applicable to goods import and export transactions;

Whereas Law 05-01 of Dhou El Hidja 1425 corresponding to February 06th, 2005 relating to the prevention and fight against money laundering and financing of terrorism;

Whereas Order 05-05 of Jomada Ethania 1426 corresponding to July 25th, 2005 relating to the 2005 complementary budget law;

Whereas Law 05-07 OF Rabie El Aouel, 1426 corresponding to April 28th, 2005 relating to hydrocarbons as amended and complemented;

Whereas the Presidential Decree of Rabie 10th El Aouel, 1422 corresponding to June 2nd, 2001 relating to the appointment of the Governor and Vice-Governors of the Bank of Algeria;

Whereas the Presidential Decree of Rabie 10th El Aouel, 1422 corresponding to June 2nd, 2001 relating to the appointment of the members of the Board of Directors of the Bank of Algeria,

Whereas the Presidential Decree of Chaâbane 26th, 1423 corresponding to November 02nd, 2002 relating to the appointment of a member of the Board of Directors of the Bank of Algeria;

Whereas the Presidential Decree of 24 Dhu Al Quida, 1424 corresponding to January 14th, 2004 relating to the appointment of the members of the Council of Credit of the Bank of Algeria;

Whereas the Presidential Decree of Joumada El Oula 05th, 1427 corresponding to June 1st, 2006 relating to the appointment of Vice-Governor of the Bank of Algeria

Whereas Regulation 95-07 of December 23rd, 1995 amending and replacing Regulation 92-04 of March 22nd, 1992 relating to foreign exchange;

Whereas Regulation 91-12 of August 14th, 1991, relating to imports domiciliation

Whereas Regulation 91-13 of August 14th, 1991 relating to the domiciliation and financial settlement of the non hydrocarbon exports;

Whereas the Resolution of the Council of Money and Credit of January 09th, and February 03rd, 2007;

Promulgates the Regulation the content of which follows:

Article 1: The purpose of this Regulation is to define convertibility principle of the national currency with regard to current international transactions and rules applicable to transfers from abroad and towards foreign countries connected with such transactions, including the rights and obligations of external trade operators and relevant authorized intermediaries.

TITLE I - GENERAL PRINCIPLES:

Article 2: in the sense of this Regulation, the following are considered as:

- resident in Algeria, natural and legal persons whose main center of economical activities are based in Algeria,
- non-resident natural and legal persons whose main center of economical activities is based abroad

Article 3: without any prejudice to the legal and regulatory provisions in force, payments and transfers connected with current international transactions shall be free. They shall be carried out by authorized intermediaries.

Article 4: in the sense of this Regulation, we understand by payments and transfers relevant to current international transactions, namely:

- Payments and transfers made as external trade transactions on goods and services namely, technical assistance, and current transactions connected with the production
- Payments made as interests on loans and net earnings of other investments
- Loan reimbursements

Article 5: Any invoice or sale of goods and services on the national customs area shall be carried out in Algerian Dinars except for the cases provided for by the regulation in force.

Article 6: Excepting any special authorization from the Bank of Algeria, exportation and importation of any transferable security or means of payment denominated in national currency shall be forbidden.

However, travellers shall be authorized to export and / or import the paper money in Algerian Dinars within the limit of an amount fixed by an Instruction from the Bank of Algeria.

Article 7: The Council of Money and Credit shall delegate the application of the foreign exchange regulations to banks and financial institutions, authorized intermediaries who are solely entitled to process external trade and foreign exchange transactions. The latter shall ensure their compliance with respect to the law and regulations in force.

The financial services of “Algérie Poste” shall be entitled - within the limits of the prerogatives that they have been entrusted with by law applicable to them – to proceed with certain payments and fund transfers/ repatriations.

The Bank of Algeria shall exercise a subsequent control in order to ensure that the transactions carried out are regular and conforming to the prescriptions of this Regulation.

Article 8: Except for the cases expressly provided for by article 126 of Order N° 03-11 mentioned above, the constitution of monetary, financial and property assets abroad by residents from their activities in Algeria, shall be forbidden.

Article 9: All repatriated resources in foreign currencies which have been generated from hydrocarbon and mining products as well as those of bilateral , multilateral and free loans intended for the financing of the balance of payment shall compulsorily be transferred to the Bank of Algeria.

Article 10: Management of a country ‘s foreign currencies generated from the repatriation of hydrocarbon and mining export receipts as well as those generated from bilateral, multilateral or free loans intended for the financing of the balance of payments shall come under the Bank of Algeria competency.

Management of the country resources in foreign currencies put at the disposal of authorized intermediaries by the Bank of Algeria shall come under the latter’s competency.

TITLE II - AUTHORIZED INTERMEDIARIES

Article 11: Any bank or financial institution which has been authorized in compliance with the provisions of Title IV of Order N° 03-11 mentioned above, may acquire the capacity of authorized intermediary to carry out external trade and foreign exchange transactions.

Article 12: The capacity of authorized intermediary shall be obtained under the approval granted by the Governor of the Bank of Algeria.

Article 13: The approval mentioned in article 12 above shall be subject to a publication in the “Journal Officiel” and a notification.

With a view to proceed with external trade and foreign exchange transactions, each counter of authorized intermediaries shall be subject to a registration by the Bank of Algeria.

Article 14: Authorized intermediaries shall be compelled to equally ensure to their clients the transactions, subject of this Regulation, for which they have been authorized.

Excepting any established insolvency, the client may resort to an appeal lodged with the Bank commission for any dispute opposing him to the authorized intermediary.

Article 15: The Bank of Algeria may pronounce protective measures against any counter or external trade operator having infringed the provisions of the law and foreign exchange regulations.

Article 16: The Bank Commission may decide to withdraw the authorized intermediary capacity - under the external trade and foreign exchange transactions – to the holder of such, in case of any practices contrary to the law and foreign exchange regulations.

TITLE III - FOREIGN MEANS OF PAYMENT

Article 17: Any resident shall be authorized to acquire and hold in Algeria, within the limits provided for hereafter, means of payment denominated in freely convertible foreign currencies. Such means of payment shall not be acquired negotiated and deposited in Algeria only with authorized intermediaries except for the cases provided for by the regulation in force or authorized by the Bank of Algeria.

Article 18: In the sense of Article 17 above, the following shall constitute means of payment:

- Bank notes
- Travellers' cheques
- Postal or bank cheques
- Bills of exchange
- Any other freely convertible means or instrument of payment denominated in foreign currency regardless of the support used.

Article 19: Any traveller entering Algeria shall be authorized to import foreign bank notes and travellers' cheques subject to a customs clearance declaration for any amount exceeding a limit specified by an Instruction from the Bank of Algeria.

Article 20: Any traveller leaving Algeria shall be authorized to export any amount in foreign bank notes or travellers' cheques, up to:

The amount declared at the entrance, deducted of the sums regularly transferred to the authorized intermediaries and foreign exchange offices as far as non residents are concerned.

The deduction on foreign currency accounts within the maximum limit specified by an Instruction from the Bank of Algeria and /or the amounts fixed by the Bank of Algeria, and /or amounts covered by a foreign exchange authorization as far as residents are concerned.

Article 21: Foreign exchange transactions in Algerian Dinars and freely convertible currencies shall be carried out only with authorized intermediaries and/or the Bank of Algeria.

TITLE IV - FOREIGN CURRENCY ACCOUNTS

Article 22: Any resident or non-resident natural or legal person shall be authorized to open one or several sight/ foreign currency account with authorized intermediary banks.

Authorized intermediary may hold foreign currency accounts with the Bank of Algeria.

Foreign currency accounts shall be credited with foreign means of payment in the sense of article 18 of this Regulation.

Article 23: the terms and conditions of operation and management of foreign currency accounts shall be defined by an instruction from the Bank of Algeria.

TITLE V: RULES APPLICABLE TO EXTERNAL TRADE TRANSACTIONS ON GOODS AND SERVICES

1. General Rules:

Article 24: External trade operators mentioned in article 1 above shall:

- Natural or legal persons carrying out an economic activity in compliance with the law and regulations in force
- State Administrations, organizations and Institutions

The provisions of this Regulation shall also apply to the services connected with transformation, processing to order, repair services.

Article 26: The commercial contract or any other document serving as a justification of property transfer and /or transfer of any property or provision of services between a resident operator and a non-resident operator shall indicate, namely:

- Subcontractors' names and addresses
- Country of origin and from and where goods and services are coming or sent to.
- Quantity, quality and technical specifications
- Transfer price for goods and services in the money of invoicing and contract payment
- Delivery delay for goods and completion of services

- Contract clauses for risk coverage and other auxiliary costs
- Terms and conditions of payment

Article 27: Excepting any otherwise legal or regulatory provisions, all the trade terms and conditions (INCOTERM) reported in the Rules and Usual Practices of the Chamber of Commerce shall be registered in the commercial contracts.

Article 28: The method of settlement shall be those universally accepted.

The authorized intermediary shall ensure the authenticity of the documents provided, the entry in the lists of the commercial contract and its completion.

Article 29: excepting for the transit transactions and other transactions mentioned in article 33 below, any goods or services import or export transaction shall be subject to the domiciliation obligation with an authorized intermediary.

Domiciliation shall be prior to any fund transfer/ repatriation, commitment and/or customs clearance.

Article 30: Domiciliation shall consist in the opening of a file which shall result in the attribution of a domiciliation number by the authorized intermediary domiciling the commercial transaction. This file shall contain all the documents relating to the commercial transaction.

The operator shall select the authorized intermediary with whom he is committed to perform all the procedures and bank formalities connected with the transaction.

Article 31: The counter of the authorized intermediary entitled to proceed with the domiciliation of the external trade transactions shall keep a register of the domiciled files quoted and signed by an authorized person, and ensure their financial follow-up.

Article 32: The commercial document used as a basis for bank domiciliation may have different forms, such as that of a contract, a pro-forma invoice, a definite order, a final purchase confirmation, an exchange of correspondences where all the indications required for the parties identification, as well as the nature of the commercial transaction shall be included.

Article 33: The following shall be exempted from bank domiciliation:

- The “without payment” Imports/ exports made by travellers for their personal use, in accordance with the provisions of the Budget Law.
- The “without payment imports” made by nationals registered at the diplomatic and consulate representatives abroad when they return definitely to Algeria in accordance with the provisions of the Budget Law.
- The “without payment” imports carried out by diplomatic, consulate and assimilated agents including those representing companies and public institutions abroad during their return to Algeria.
- Imports/exports with a value below the counter- value of 100.000AD in FOB value.
- Importations and exportations of samples, contributions and goods received in case of the calling into play of the guarantee.
- Importations of goods carried out under the suspensive customs system.

Customs clearance declarations relating to imports and exports mentioned above and in article 58 below, shall bear the mention “non domiciled imports/exports”

Article 34: without prejudice to other regulatory provisions, any modification of the domiciled contract shall be subject to an addendum which shall be domiciled under the same conditions as those of the main contract.

Article 35: The authorized intermediary shall not refuse the domiciliation of any export or import contract if all the conditions provided for by this regulation are observed. The operator shall have the right of appeal with the Bank Commission.

Article 36: importations and exportations of equipment and/or material under leasing shall be assimilated to postponed payment imports and exports. They shall meet the conditions of domiciliation and payment applicable to such operations.

Article 37: Banks and Financial Institutions, authorized intermediaries, shall be solely entitled to carry out, on behalf of their clients, transfers and repatriations connected with such transactions on the goods and services that have prior been domiciled at their counters.

Financial services of “Algérie Poste” may carry out transfers/ repatriations connected with the transactions for which they have been entitled.

Article 38: The authorized intermediary shall assign for cash or on credit, foreign currencies to importers of goods and services in compliance with the regulation in force.

Article 40: The authorized intermediary shall see that the files domiciled at this level have been audited within the prescribed time.

The authorized intermediary shall immediately notify any irregularity or delay in the execution of funds movement from abroad and towards foreign countries.

2- Regulations relating to importation of goods and services

Article 41: The authorized domiciling intermediary shall open a domiciling file allowing him to ensure the follow up of the importation transaction.

The latter shall submit to the resident importer a copy of the contract bearing the domiciliation visa. Such visa shall be set on all the contract relevant invoices.

The domiciliation visa shall allow for:

- Starting the goods customs clearance procedure
- Endorsing bills accepted or subscribed by the resident importer
- Executing payments in Dinars and transfers in foreign currencies and
- Establishing at the domiciliation maturity date, an audit report of the file to be sent to the Bank of Algeria.

Article 42: As regards the approval of the domiciliation files and of any commitment that shall result in a payment by transferring abroad foreign currencies, the authorized intermediary shall take into account namely:

- The regularity of the transaction concerned with respect to the law and regulations in force
- His client credit standing

Article 43: The authorized Intermediary shall accept the submission of hand carried documents when these are dangerous or perishable. The competent ports services and/or customs services shall be responsible for appraising the emergency of such.

Article 44: Any settlement or financial commitment provided for by the commercial contract shall be carried out only when the authorized intermediary shall have at his disposal, namely:

- Final invoices
- Shipping documents or customs clearance document(s) for consumption use as part of goods importation
- Certificate for services carried out in connection with service importation

Article 45: Payments of importations shall be carried out by banks and financial institutions, authorized intermediaries, from resources in foreign currencies:

- Belonging to them
- Acquired from their clients
- Acquired over the inter-bank foreign exchange market
- Or generated by any external financial credit

Article 46: Transfers in foreign currencies shall be carried out in accordance with the law in force, pursuant to the contractual clauses and according to international rules and practices.

The amount to be transferred shall exceed neither the transferable portion provided for by the contract and its addendum nor by the final the final invoices of the good and service imported. Any gap, with respect to the amounts that have initially been indicated shall duly be justified.

Article 47: Should the importation be subject to any external financing, the authorized intermediary shall ensure, during the contract domiciliation that the relevant financing terms and conditions shall be in adequacy with the terms defined by the Bank of Algeria.

Any declaration of the external debt shall be transmitted to the Bank of Algeria according to the rules and procedures in force.

Article 48: The authorized intermediary shall carry out, upon the operator's order, any transfer abroad, subject to the submission by said operator of documents certifying the shipment of goods exclusively towards the national customs territory and the relevant final invoices.

Transfer may also be carried out on the basis of final invoices and customs clearance documents authorizing the consumption of such goods.

Article 49: Transfer abroad of foreign currencies - by debiting a foreign currency amount - for the payment of importations of an amount equal or above the AD 100 000 counter-value shall be made by the authorized intermediary under the same terms and conditions as those defined by Article 48 above.

Article 50: The domiciling authorized intermediary may proceed with the deposit of advance payments within a 15% limit of the contract global amount for the purpose of goods and services importation, as far as a relevant clause conforming to the international rules and practices is provided for in the commercial contract, subject to the submission of a reimbursement advance guarantee with an equal amount, delivered by any first rank bank.

Beyond the limitation provided for in the above-mentioned paragraph, the authorization from the Bank of Algeria shall be required.

Article 51: Transfer or settlement of service importation, under Article 4 of this Regulation, shall be carried out on the basis of the contract/and or final invoice duly signed by the resident importer together with the certificate for completed service and any other document or authorization that might possibly be required and delivered by the relevant administration.

Transfer, under importation of services, as part of a sub-contract shall expressly be provided for by the basis contract.

Article 52: The domiciling file contract and transfer by the authorized domiciling intermediary shall be carried out as follows:

As far as importation of goods is concerned, on the basis of:

- The commercial contract, and/or final invoices
- Shipping documents
- Customs clearance documents, (bank copy) or document admitted as equivalent
- Copy of the relevant swift message
- Copy of the statistical formula sent to the Bank of Algeria

As far as importation of services is concerned:

Commercial contract and/or final services

Certificate for service completed

Documents and authorizations possibly required

Copy of the relevant Swift message

Statistical formula sent to the Bank of Algeria

Article 53: control of the domiciling files and transfer of import transactions, shall be completed for:

- Commercial contracts settled in cash, within a maximum deadline of three months, following the transaction financial settlement
- Commercial contracts executed by postponed payments, within a maximum deadline of thirty days following the last settlement.

Article 54: During the control period, failing the customs clearance document (bank copy) the domiciling authorized intermediary shall claim it at the customs clearance issuing bureau concerned.

One copy of the claim shall be sent, for information purposes, to the Customs Clearance General Direction.

The true certified copy of the “Prima” original copy, established by the Customs Clearance Bureau and transmitted to the domiciling counter concerned, or the document accepted as equivalent, may be taken into account by the latter for the importation file auditing.

Article 55: At the end of the control period of the import transactions domiciliation, the domiciling authorized intermediary shall:

- a) audit the file to check if it is regular and conforming to the regulatory provisions
- b) communicate the required observations to the resident importer to make him complete the file or adjust it should present settlement surplus
- c) send one copy of the file to the Bank of Algeria, after an additional deadline of 30 days in case of non adjustment and/or if the settlement surplus exceeds the AD 100 000 counter –value.

3 - Regulations relating to goods and services exportations

Article 56: Exportation of goods as a definite sale or in consignment, including services exportations, shall be submitted to the domiciliation obligation excepting those provided for in Article 58 above.

Article 57: Regulations applicable to the domiciliation of export services contracts, encashment and repatriation of their receipts shall be the same as those applicable to goods exportation.

Article 58: Besides the exemptions provided for in Article 33, above, domiciliation of exportation contracts shall not be required for:

- Temporary exportations, except if they entail the payment of services by repatriation of foreign currencies
- Exportations made through “Algérie Poste” against reimbursement with a value below or equal to the AD100 000 counter-value.

Article 59: Domiciliation and repatriation of hydrocarbon export proceeds and mining products shall be submitted to a specific regulation.

Article 60: Domiciliation of fresh, perishable and/or dangerous exportation products may take place during the five (05) working days following the shipment date and customs clearance declaration.

Article 61: The export contract may be established in cash or on credit. When exportation is required, the exporter shall repatriate the proceeds generated by the exportation within a deadline not exceeding one hundred and twenty days (120) days, as from the shipment date , as far as goods are concerned, and from the completion date as far as services are concerned.

If the payment of exportation is required within a deadline not exceeding one hundred and twenty (120) days, exportation shall take place only after an authorization from the relevant services of the Bank of Algeria.

Article 62: The exporter shall request the opening of a domiciliation file by submitting to the authorized intermediary, the original copy and two copies of the commercial contract or any other substituting document possibly required.

After controlling the compliance between the original and the two copies, one of these bearing the domiciliation file number and stamp of the authorized intermediary, shall be returned to the exporter.

Article 63: The exporter shall be compelled to indicate on the customs clearance declaration, the bank domiciliation references relating to the exportation contract, except for the exports mentioned in Article 58 above,. Such indication shall intervene within the five (05) working days following the shipment.

Article 64: The “bank” copy of the customs clearance declaration shall be sent by the customs clearance services to the authorized intermediary domiciling the exportation.

Article 65: The non - hydrocarbon export receipts and non - mining products shall be collected only with the authorized intermediary domiciling the contract.

The exporter shall be compelled to repatriate the exportation product within the deadline set by the regulation in force. Any delay in payment and repatriation shall be justified.

The Exporter shall observe the obligation of repatriation of the receipts generated by the exportation. Any delay in the payment or repatriation of the receipts shall be declared by the authorized intermediary.

Article 66: The repatriation obligation shall be relating to the amount invoiced and to the amount of the auxiliary contractual costs when the latter are not incorporated In the sale price. The amount subject to the repatriation obligation shall include any indemnification or contract penalty.

Article 67: As soon as non- hydrocarbon and mining products and goods and services exports receipts are repatriated, the authorized intermediary shall put at the exporter’s disposal:

- The foreign currency portion owed to him, in compliance with the regulation in force, and which is deposited in its foreign currency account.
- The counter-value in Dinars of the receipts balance generated by the exportation submitted to an obligation of transfer.

Non domiciled export receipts and those repatriated beyond the prescribed time shall not give right to foreign currencies retrocession.

Article 68: payment of consigned exportations shall be required as the sales are carried out by depositors or export agents.

The exporter shall be compelled to submit to the authorized intermediary domiciling the transaction, a monthly statement of the sales accounts together with the invoice duplicates drawn on the foreign purchasers.

Repatriations shall intervene within the regulatory deadline deducted from the sale date.

Article 69: Control of export repatriation shall be carried out through the authorized domiciling intermediary on the basis of the documents transmitted by the exporter and customs clearance services.

Article 70: Customs clearance services shall transmit to the counter of the domiciling authorized intermediary an exportation file any relevant document for control purposes of the exportation transaction, namely:

- The “bank copy” of the customs clearance declaration or the document accepted as an equivalent
- The correcting documents certifying any amendment in the exportation file
- The documents relating to re-importation of goods, as the case may be.

Article 71: Audit of the exportation file shall be carried out by the authorized domiciling intermediary on the basis of:

- The bank copy of the customs clearance declaration, as far as goods transmitted by the customs clearance services are concerned
- The repatriation justifications received
- The statistical formula sent to the Bank of Algeria

Article 72: The authorized intermediary shall be compelled to audit the exportation files domiciled during the quarter following the regulatory repatriation deadline. To this effect, he shall see that the repatriation and payment maturities connected with the transactions provided for in the commercial contract are observed.

Article 73: At the end of the period provided for in article 72, above, the authorized domiciling intermediary shall:

- a) Audit the file to check if it is conforming to the regulatory provisions
- b) Communicate the required observations to the exporter to make him

complete the file or make the appropriate corrections in case of any repatriation insufficiencies

- c) send to the relevant services of the Bank of Algeria one copy of the file after an additional deadline of 30 days, in case of non regularization

Article 74: The authorized intermediaries shall be compelled to send to the Bank of Algeria an audit result statement of exportation files within the month following the quarter considered.

TITLE VI - MISCELLANEOUS CURRENT TRANSACTIONS

Article 75: Travelling of resident nationals on the occasion of Hadj shall give right to a foreign currency exchange allowance the amount and terms of attribution of which shall be set by regulations on a yearly basis.

Article 76: Travelling abroad of residents, for professional purposes, during temporary commissioning shall entitle them to foreign exchange under daily compensatory indemnifications for costs incurred, the terms and conditions of which shall be set by regulations.

Authorized intermediary banks shall be entitled to instruct and meet the demands of their clients in this respect.

Article 77: Travelling abroad of resident nationals for health care shall give right to a foreign exchange allowance the amount and terms of attribution of which shall be set by an instruction for the Bank of Algeria. Such foreign exchange allowance shall be granted by authorized intermediary banks.

A foreign exchange allowance for studies shall be granted to resident nationals studying in a higher education institution or undergoing long term health care and registered in a normal or specialized institution. The amount and terms of attribution shall be defined by an instruction of the Bank of Algeria.

Transfers under studies allowances shall be carried out through an authorized intermediary bank or through “Algérie Poste” services

Resident nationals shall benefit from a right to foreign exchange on a yearly basis as part of a travelling abroad, the amount and terms of attribution of which shall be defined by an Instruction from the Bank of Algeria. Such allowance shall be granted by authorized intermediary banks.

The Bank of Algeria shall examine and authorize any application in good faith of foreign currencies beyond the rights and foreign exchange limits defined under this Article.

Article 78: Subject to the law and regulations relating to the recruitment and employment of foreigners in Algeria, foreign employees recruited by the local government or economic agents under the Algerian law shall be granted the right to proceed with the transfer of their savings on their salary under the conditions defined by an instruction from the Bank of Algeria.

Article 79: Terms of transfer connected with airline, marine and land transportation shall be fixed by an instruction from the Bank of Algeria.

Article 80: Transfers under foreign investment returns shall be made through authorized intermediaries in compliance with the law and regulations in force.

Article 81: Current transfers of local governments shall be carried out through authorized intermediaries.

TITLE VII: MISCELLANEOUS PROVISIONS

Article 82: Natural persons and associations legally incorporated may for personal use or in compliance with their articles, import commercial goods or services. Such importations shall be subject to the same obligations as those carried out by the natural or legal persons mentioned in Article 24 above.

Article 83: With respect to over site control carried out by the Bank of Algeria, the terms and practical conditions of declaration and reporting of current transactions by authorized intermediaries shall be fixed by an Instruction from the Bank of Algeria.

Article 84: Authorized intermediaries, without prejudice to contrary provisions, shall keep the domiciling and transfer files and any other relevant document relating to the current transactions, subject of this regulation, during a five year period, at least, as from the date of the auditing and execution.

Article 85: the legal provisions in force shall be applied against any infringer who has not observed the provisions of this Regulation.

Article 86: Any otherwise provision to this Regulation shall be repealed namely, regulations 91-12 of August 14th, 1991, relating to imports domiciliation, Regulation 91-13 of August 14th, 1991, relating to the domiciliation and financial settlement of non-hydrocarbon exports and Regulation 95-07 amending and replacing Regulation N° 92-04 of March 22nd, 1992 relating to foreign exchange control.

Article 87: This Regulation shall be published in the “Journal Officiel” of the Peoples’ Democratic Republic of Algeria.

The Governor
Mohammed Laksaci

REGULATION 07-02 OF SAFAR 17TH 1428 CORRESPONDING TO MARCH 07th ,2007 RELATING TO THE TERMS OF PREVENTION AND FIGHT AGAINST THE ISSUING OF BAD CHEQUES

The Governor of the Bank of Algeria,

Whereas Order 75-59 of September 26th 1975 as amended and completed relating to the Commercial Code, namely its articles 526 bis through 526 bis 16

Whereas Order 03-11 of Jomada Ethania 27th, 1424 corresponding to August 26th, 2003 relating to Money and Credit, namely its article 98

Whereas the Presidential Decree of Rabie El Aouel 10th, 1422 corresponding to June 2nd, 2001 relating to the appointment of the Governor and Vice-Governors of the Bank of Algeria,

Whereas the Presidential Decree of Rabie El Aouel 10th, 1422 corresponding to June 2nd, 2001 relating to the appointment of the members of the Board of Directors of the Bank of Algeria

Whereas the Presidential Decree of Rabie El Aouel 10th, 1422 corresponding to June 2nd, 2001 relating to the appointment of the members of the Council of Money and Credit of the Bank of Algeria

Whereas the Presidential Decree of Chaabane 26th, 1423 corresponding to November 2nd, 2003 relating to the appointment of one member of the Board of Directors of the Bank of Algeria

Whereas the Presidential Decree of Djoumada El Aouel 05th, 1427 corresponding to June 1st, 2006 relating to the appointment of the Vice-Governor of the Bank of Algeria

Whereas Regulation 92-02 of March 22nd, 1992 relating to the organization and operation of the overdue payments agency

Whereas Regulation 92-03 of March 22nd, 1992 relating to the prevention and fight against the issuing of bad cheques,

Further to the Resolution of the Council of Money and Credit of March 7th 2007,

Promulgates the Regulation the content of which follows:

Article 1 : The object of this Regulation is the setting up of the terms of prevention and fight against the issuing of bad cheques in which banks, the Treasury, the financial services of “Algérie Poste” shall take part.

Article 2: The above-mentioned terms shall be based on a centralization system of information relating to any difficulty of payment of cheques due to a lack or insufficient funds, and their transmittal to banks, the Public Treasury and financial services of “Algérie Poste” for consultation and operation, namely at the delivery of the first cheque book to their client.

Article 3: Prior to the delivery of the first cheque book to the client, banks, the Public Treasury and the financial services of “Algérie Poste” shall consult the file of the overdue payments agency of the Bank of Algeria.

Article 4: Immediately after the recording of any difficulty of payment due to a lack or insufficient funds, the drawee shall notify such to the overdue payments agency of the Bank of Algeria within the (04) working days following the date of submission of said cheque. Also, the drawee shall make up a non-payment certificate that he shall submit – or have such submitted to the beneficiary.

Article 5: Immediately after the recording of the first difficulty of payment, duly recognized, due to lack or insufficient fund, the drawee shall send to the issuer of the cheque concerned, an injunction for adjusting the faulty payment within a maximum deadline of (10) ten days as from the date of transmittal of said injunction.

The form of the letter of injunction is attached to this regulation (schedule 01).

Article 6: The adjustment mentioned above shall be the authorization granted to the drawer of a bad cheque to set up sufficient provisions and make them available to the drawee in order to settle the faulty payment.

Article 7: The letter of injunction sent to the account holder shall indicate that the faulty payment declaration has been made to the overdue payments agency and that failing any adjustment within ten (10) days deadline prescribed by law, he shall:

- Be proscribed to issue any cheque over a (05) year period with the declaring institutions as from the date of injunction
- return the cheque forms not yet issued and remaining his possession and in that of his mandates

Article 8: Within the (20) twenty days following the expiry of the 10 day injunction deadline, mentioned in articles 6 and 7 above, the issuer of the unpaid cheque may proceed with the adjustment of the faulty payment by setting up a sufficient provision and making it available with settlement of the discharging penalty provided for in favour of the Treasury and so doing, he may be authorized to issue cheques.

Article 9: Failing adjustment of the faulty payment, under the terms and conditions provided for in articles 5, 6, 7 and 8 above and in case of any second offence within the twelve (12) months following the first faulty payment, even if the latter has been adjusted, the drawee shall:

- Pronounce the interdiction to issue cheques for a five years period as of the date of injunction of the account holder. The interdiction shall also apply to the mandates as far as the holders' accounts are concerned.
- Send to the account holder an injunction for adjustment of the faulty payment in order to raise a sufficient fund and make it available with settlement of the discharging penalty provided for by law in favour of the Treasury.

Failing which, the person not authorized to use the cheque book shall recover this right only after the expiry of the interdiction deadline.

Article 10: The letter of injunction provided for in article 9 above shall state precisely the amount and deadline of the discharging penalty payment.

The form of the letter is attached to this regulation (schedule 2).

Article 11: the discharging penalty which shall be settled by the account holder to recover the right to issue cheques shall be fixed to 100 AD per 1000 AD portion or or portion fraction.

Article 12: The amount of the discharging penalty provided for in article 9, 10 and 11 of this regulation shall be doubled in case of any second offence.

Article 13: Failing adjustment of the faulty payment within the cumulated deadlines provided for in articles 5 and 8 above, penal actions shall be taken according to the provisions of the penal code.

Article 14: The drawee shall declare without delay, to the overdue payments agency any measure – proscribing the issuing of cheques - against one of the clients.

The Bank of Algeria shall communicate, on a regular basis - to banks, the Public Treasury and financial services of “Algérie Poste” - the updated list of the persons proscribed to use cheque books

Article 15: As soon as the Bank of Algeria communicates the list of the persons proscribed to use the cheque books mentioned in article 14 above, .banks, the public Treasury and the financial services of “Algérie Poste” shall:

- Avoid delivering a cheque book to any client mentioned in such list
- Require the client concerned to return the forms of the cheques that have not yet been issued.

Article 16: contestations relating to the interdiction for issuing cheques and to the discharging penalties shall be referred to the relevant jurisdictions.

Article 17: The drawee shall jointly and severally pay the civil indemnities granted to the bearer for default payment if he does not justify that the account opening and the cheque forms delivery have been made according to the legal and regulatory procedures governing faulty payments.

Article 18: any infractions to the provisions of this regulation and to those of the subsequent Articles shall be notified to the banking commission.

Article 19: The Bank of Algeria shall state precisely the terms and conditions of application of this regulation.

Article 20: Any provisions contrary to this regulation namely, those of Regulation 92-03 of March 22nd, mentioned above shall be repealed.

Article 21: This Regulation shall be published in the “Journal Officiel” of the Peoples’ Republic of Algeria.

The Governor
Mohammed LALSACI