Angolan Capital Markets

Investments in Regulated Markets by Foreign Entities

Research
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Economics
Tiago Bossa Dionísio
(+351) 211 214 431
tiago.dionisio@eaglestone.eu

FACT: Angola's central bank (BNA) issued a legislation notice about the procedures required from foreign domiciled entities to invest in the country's debt and equity market (BODIVA) as well as other regulated markets. The BNA also issued another notice with an update of the rules for opening and moving deposit accounts held by foreign domiciled investors as well as foreign currency accounts held by foreign and local investors.

Notice n: 01/2017 establishes the procedures required from these entities to invest as well as transfer capital, interest, dividends and other income from transactions in these markets.

The new legislation establishes that:

- All foreign domiciled investors can only invest using funds coming from overseas in instruments that have no maturity or with a maturity equal to or greater than one year;

- The sale of these instruments by foreign domiciled investors can only be made to other foreign domiciled investors; and

- The only exceptions to the previous requirement are if there is (1) a merger or incorporation of a company, (2) the investment is inherited in favor of a domestic investor and (3) an initial public offering (IPO).

The foreign exchange operations related to investments from foreign domiciled investors must be done through a domestic financial institution operating in the country and registered in the regulated market. The aforementioned operations do not require the authorization from the BNA, but must be registered within 48 hours under specific regulation to be defined later. The movement of foreign currency must be registered in specific accounts of the foreign domiciled investor, or its foreign intermediary, for operations done in the regulated market.

The transfer of invested funds abroad can be made by financial institutions after the presentation of (1) a copy of the revenue collection document or proof that taxes were paid on the transaction and (2) proof that the instruments were sold under the rules of the regulated market. The transfer of interest, dividends and other income requires the presentation of (1) a copy of the revenue collection document or proof that taxes were paid on the transaction and (2) a certificate of the amount to be transferred.

Notice n: 02/2017 establishes the rules for the opening and movement of deposits domiciled in domestic financial institutions by foreign investors in local and foreign currencies. This law is not applicable to accounts opened and held by those entities operating under the foreign exchange law of 2012 related to the oil sector (Law n: 2/12 of 13 January).

Foreign domiciled investors can hold and move accounts denominated in local and foreign currency in financial institutions operating in Angola under the rules described below. Domestic investors that want to transfer funds held in financial institutions abroad can also open and move foreign currency accounts in financial institutions in Angola under the rules described below. Domestic investors can hold, at the same time, separate accounts denominated in foreign currency under the rules described below.

The domestic currency accounts held by foreign domiciled investors can only be credited in the following manner: (1) the conversion of foreign currency from abroad or accounts held by foreign domiciled investors in foreign currency; (2) revenues from economic activities legally practiced in the country; and (3) remuneration from investments done through a financial institution. These accounts can only be debited through (1) domestic transfers, (2) payment of checks issued through the account, (3) use of debit cards in the country, and (4) payment of any costs associated with the maintenance of the account or the movement of funds.

The foreign currency accounts held by foreign domiciled investors or local investors can only be credited through (1) funds coming from abroad and (2) remuneration from investments done in financial institutions. On the other hand, these accounts can only be debited via (1) FX operations for the payment of domestic investors in local currency, (2) the issue of payment or transfer orders outside of the country, (3) interbank transfers in foreign currency to accounts held by domestic investors, (4) the use of international electronic payment cards or other means of payment accepted internationally and (5) the payment of any maintenance or transfer costs.

OPINION: With the introduction of this new legislation, the central bank aims to provide a signal to foreign investors that they will not have any major impediments when repatriating their profits to their jurisdiction. However, several issues still exist that, in our view, could be seen by foreign investors as detrimental when deciding to invest in Angola's regulated markets.

The current tax legislation states that income derived from the use of capital (i.e., interest, dividends and royalties) is subject to Capital Income Tax at a rate that varies from 5% to 15%. This tax is normally paid through the withholding tax mechanism. Capital gains derived from the disposal of shares or other securities are subject to a 10% tax, but in some cases this could be lowered to 5%. Moreover, it is our understanding that there are additional levies on repatriated income from these transactions.

The issue comes when a foreign domiciled investor aims to repatriate the profits generated in Angola. Angola has not concluded double taxation agreements with any other jurisdiction and so double taxation relief is not available in the country. Angola has reportedly been trying to reach this type of agreement with other Portuguese-speaking countries in Africa as well as other countries in southern Africa, but nothing has yet been concluded. We think that Portugal and Brazil would also be part of the group of countries that Angola would try to negotiate double taxation relief agreements due to the interest that potential investors from these two countries would have in the local regulated markets.

In a nutshell, this legislation is another step forward in Angola's objective to open its regulated markets, namely to foreign investors. However, we believe that the Angolan authorities will need to tackle other issues, namely related to the taxation of repatriated income and the issue of double taxation aforementioned in order to make investing in its markets more attractive for all investors, both domestic and foreign.

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Additional information is available upon request.

AMSTERDAM - Herengracht 450-454 1017 CA - T: +31 20 240 31 60

CAPE TOWN - 22 Kildare Road Newlands 7700 - T: +27 21 674 0304

JOHANNESBURG -Unit 4, Upper Ground, Katherine & West 114 West Street, Sandton – T: +27 11 326 6644

LISBON - Av. da Liberdade, 105, 3rd Floor - T: +351 21 121 44 00

LONDON - 48 Dover Street - T: +44 20 7038 6200

LUANDA - Rua Marechal Brós Tito n° 35/37 - 13th Floor A - Kinaxixi, Ingombotas - T: +244 222 441 362

MAPUTO – Avenida Vladimir Lenine – Edifício Millennium Park, Torre A, nº 174, 4º andar S - T: +258 21 342 811

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EAGLESTONE SECURITIES

Business Intelligence
Caroline Fernandes Ferreira
(+351) 211 214 430
caroline.ferreira@eaglestone.eu

Research
Tiago Bossa Dionísio
(+351) 211 214 431
tiago.dionisio@eaglestone.eu