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VERITAS MAKES EVERY EFFORT TO ENSURE THE PROVISION OF RELIABLE INFORMATION,
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This Bill was published in the Zimbabwean Government Gazette Extraordinary
dated 23rd July 2019 [General Notice 1168A of 2019]. [Note added by Veritas]

RESERVE BANK OF ZIMBABWE AMENDMENT BILL, 2019

MEMORANDUM

This Bill will amend the Reserve Bank of Zimbabwe Act [*Chapter 22:15*] (No. 5 of 1999) to enable the Reserve Bank, with the leave of the Minister responsible for finance to issue an official electronic currency.

At the same time, the opportunity is taken to: —

- validate the issuance of RTGS dollar with effect from the promulgation (on the 22nd February, 2019) of the Presidential Powers (Temporary Measures) (Amendment of Reserve Bank of Zimbabwe Act and Issue of Real Time Gross Settlement Electronic Dollars (RTGS Dollars)) Regulations, 2019 (published in Statutory Instrument 33 of 2019);
- validate (for the avoidance of doubt) Statutory Instrument 142 of 2019, which reintroduced the Zimbabwe dollar with effect from the 24th June, 2019.

In more detail the individual clauses of the Bill provide as follows:

Clause 1

This clause sets out the Bill's short title.

Clause 2

This clause defines certain terms used in this Bill; especially noteworthy is the term "RTGS dollar".

Clause 3

This clause will insert in the Reserve Bank of Zimbabwe Act a new section enabling the Minister to prescribe by notice in a statutory instrument the creation of an electronic currency and the conditions of its initial implementation.

Clause 4

This clause will statute the provision for the issuance of the RTGS dollar temporarily enacted by the aforementioned Statutory Instrument 33 of 2019. It will also validate the issuance of the RTGS dollar before the "first effective date" (that is, the 22nd February, 2019).

Clause 5

This clause validates (for the avoidance of doubt) Statutory Instrument 142 of 2019, which reintroduced the Zimbabwe dollar (with effect from the 24th June, 2019) as the sole legal tender for transactions in Zimbabwe, by re-enacting its provision.

Clause 6

This clause empowers (for a period of 6 months after the enactment of this Bill) the Minister responsible for justice in consultation with the Minister responsible for finance, to adjust upward or downward the nominal amounts of statutory fines, statutory monetary penalties and statutory fees other than statutory fines or statutory monetary penalties.

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BILL

To amend the Reserve Bank of Zimbabwe Act [*Chapter 22:15*] and to provide
for matters connected therewith or incidental thereto.

ENACTED by the Parliament and the President of Zimbabwe.

5 **1 Short title**

This Act may be cited as the Reserve Bank of Zimbabwe Amendment Act, 2019.

2 Interpretation

In this Act—

“authorised dealer” means—

- 10 (a) the Reserve Bank; and
(b) any banking institution or any class thereof, which the Reserve Bank,
by order, declares to be an authorised dealer for the purposes of the
Exchange Control Act [*Chapter 22:05*];

15 “financial or contractual obligations” includes (for the avoidance of doubt)
judgment debts;

“first effective date” means the 22nd February, 2019, being the date from which
Statutory Instrument 33 of 2019 (that introduced the RTGS dollar) took
effect;

20 “judgment debt” means a decision of a court of law upon relief claimed in
an action which, in the case of money, refers to the amount in respect
of which execution can be levied by the judgment creditor; and, in the
case of any other debt, refers to any other steps that can be taken by the
judgment creditor to obtain satisfaction of the debt (but does not include
25 a judgment debt that has prescribed, been abandoned or compromised,
or is subject to a pending appeal);

H.B. 9, 2019.]

- “principal Act” means the Reserve Bank of Zimbabwe Act [*Chapter 22:15*] (No. 5 of 1999);
- “Reserve Bank” means the Reserve Bank of Zimbabwe referred to in section 4 of the Reserve Bank of Zimbabwe Act [*Chapter 22:15*] (No. 5 of 1999);
- “RTGS dollar” means any funds held as bank deposits under the Real Time Gross Settlement system established in terms of the National Payment Systems Act [*Chapter 24:23*];
- “second effective date” means the 24th June, 2019, being the date from which Statutory Instrument 142 of 2019 (that reintroduced the Zimbabwe dollar as the sole legal tender for all transactions in Zimbabwe) took effect;
- “unit of a bond note” means a unit (“one dollar”) or multiple thereof in which a bond note is denominated;
- “Zimbabwe dollar” means the unit of currency of Zimbabwe as defined in section 5(3) (a) and (b).

3 New section inserted in Cap. 22:15

With effect from the first effective date, the principal Act is amended by the insertion in Part VI (“Banknotes and Coinage”) of the following section after section 44B—

“44C Issuance and legal tender of electronic currency

(1) In addition to its powers to issue banknotes and coins in terms of this Act and subject to subsection (3), the Bank shall have the sole power to issue or cause to be issued electronic currency in Zimbabwe.

(2) For the avoidance of doubt it is declared that the issuance of any electronic currency shall not affect or apply in respect of—

- (a) funds held in nostro foreign currency accounts, which shall continue to be designated in such foreign currencies; and
- (b) foreign loans and foreign obligations denominated in any foreign currency, which shall continue to be payable in such foreign currency.

(3) The Bank shall not issue any electronic currency unless the Minister has, by statutory instrument specified—

- (a) the name of the electronic currency and its rate of exchange in relation to any other foreign or domestic currency; and
- (b) the effective date of the issuance of the currency, from which date (or such other date as the Minister may specify in the statutory instrument) it shall be legal tender within Zimbabwe; and
- (c) any transitional matters required to be prescribed in connection with the introduction of electronic currency, including the conversion of existing banking balances into the new currency.

(4) The Bank may, after consultation with the Minister issue any direction that, in its opinion, is in the public interest and will promote the objective and the smooth implementation of the provisions of this section.

(5) In this section—

“nostro foreign currency account” means any foreign currency account designated in terms of Exchange Control Directive RT/120 of 2018, held with a financial institution in Zimbabwe, in which money in the form of foreign currency is deposited from offshore or domestic sources.”

4 Issuance and legal tender of RTGS Dollars, savings, transitional matters and validation

(1) Subject to section 5, for the purposes of section 44C of the principal Act, the Minister shall be deemed to have prescribed the following with effect from the first effective date—

- (a) that the Reserve Bank has, with effect from the first effective date, issued an electronic currency called the Real Time Gross Settlement (RTGS) dollar; and
- (b) that Real Time Gross Settlement system balances expressed in the United States dollar (other than those referred to in section 44C(2) of the principal Act), immediately before the first effective date, shall from the first effective date be deemed to be opening balances in RTGS dollars at par with the United States dollar; and
- (c) that such currency shall be legal tender within Zimbabwe from the first effective date; and
- (d) that, for accounting and other purposes (including the discharge of financial or contractual obligations), all assets and liabilities that were, immediately before the first effective date, valued and expressed in United States dollars (other than assets and liabilities referred to in section 44C(2) of the principal Act) shall on the first effective date be deemed to be valued in RTGS dollars at a rate of one-to-one to the United States dollar; and
- (e) that after the first effective date any variance from the opening parity rate shall be determined from time to time by the rate or rates at which authorised dealers exchange the RTGS Dollar for the United States dollar on a willing-seller willing-buyer basis; and
- (f) every enactment in which an amount is expressed in United States dollars shall, on the first effective date (but subject to subsection (4)), be construed as reference to the RTGS dollar, at parity with the United States dollar, that is to say, at a one-to-one rate.

(2) From the first effective date, the bond notes and coins referred to in the Reserve Bank of Zimbabwe Amendment Act, 2017 (No. 1 of 2017) shall continue to be legal tender within Zimbabwe, exchangeable with the RTGS dollar at parity with each bond note unit, that is to say, at a one-to-one rate.

(3) The use of the RTGS currency with effect from the first effective date is hereby validated.

(4) For the purposes of this section—

- (a) it is declared for the avoidance of doubt that financial or contractual obligations concluded or incurred before the first effective date, that were valued and expressed in United States dollars (other than assets and liabilities referred to in section 44C(2) of the principal Act) shall on the first effective date be deemed to be valued in RTGS dollars at a rate of one-to-one to the United States dollar;
- (b) where a person was adjudged to be liable for the payment of any statutory monetary penalty or statutory fine before the first effective date, and—
 - (i) the payment of that penalty or fine is expressed in any statute to be payable in United States dollars; and
 - (ii) the person liable has not paid the penalty or fine on the first effective date, or has paid it partially;

such person is liable after the first effective date to pay the penalty or the fine or the unpaid portion of it in RTGS dollars at a rate of one-to-one to the United States dollar;

- (c) where a person became liable for the payment of any statutory fee before the first effective date, and—
- (i) the payment of that fee is expressed in any statute to be payable in United States dollars; and
 - (ii) the person liable has not paid the fee on the first effective date, or has paid it partially;
- such person is liable after the first effective date (subject to section 6) to pay the fee or the unpaid portion of it in RTGS dollars at a rate of one-to-one to the United States dollar;

5 Zimbabwe dollar to be the sole currency for legal tender purposes from second effective date

(1) For the avoidance of doubt, but subject to subsection (4), it is declared that with effect from the second effective date, the British pound, United States dollar, South African rand, Botswana pula and any other foreign currency whatsoever are no longer legal tender alongside the Zimbabwe dollar in any transactions in Zimbabwe.

(2) Accordingly, the Zimbabwe dollar shall, with effect from the second effective date, but subject to subsection (4), be the sole legal tender in Zimbabwe in all transactions.

(3) For the avoidance of doubt it is declared that, from the second effective date—

- (a) references to the Zimbabwe dollar are coterminous with references to the following and to no other forms of legal tender or currency—
 - (i) the bond notes and coins referred to in section 44B of the principal Act; and
 - (ii) the electronic currency prescribed for the purposes of section 44C of the principal Act, that is to say to the RTGS dollar;
- (b) the abovementioned bond notes and RTGS dollars are at par with the Zimbabwe dollar on and after the second effective date, that is to say each bond note unit and each RTGS dollar is equivalent to a Zimbabwe dollar, and each hundredth part of a bond note unit and each hundredth part of a RTGS dollar is equivalent to a Zimbabwean cent;
- (c) references to the currency of Zimbabwe shall, with effect from the second effective date, be construed as references to the form of legal tender and the electronic currency with which the term “Zimbabwe dollar” is, in terms of paragraph (a) (i) and (ii), coterminous.

(4) Nothing in this section shall affect—

- (a) the opening or operation of “nostro foreign currency accounts”, as defined in section 44C(5) of the principal Act as inserted by this Act, which shall continue to be designated in the foreign currencies with which they are opened and in which they are operated, nor shall this section affect the making of foreign payments from such accounts;
- (b) the requirement to pay in any of the foreign currencies referred to in section 2(1)—
 - (i) duties in terms of the Customs and Excise Act [*Chapter 23:02*] that are payable on the importation of goods specified under that Act to be luxury goods (or “designated goods”), or, in respect of such goods, to pay any import or value added tax in any of the foreign currencies referred to in subsection (1) as required by or under the Value Added Tax Act [*Chapter 23:12*];
 - (ii) carbon tax payments for foreign registered vehicles;

- (iii) Third Party Insurance for foreign registered vehicles;
- (iv) road access fees for foreign registered vehicles;
- (v) electronic sealing fees and fines charged by or to transborder logistics enterprises or transborder electronic tracking or tagging enterprises;
- 5 (vi) payment to local insurance companies for bond guarantees or bonds for designated goods;
- (vii) payment of deposits in foreign currency in terms of any law by foreigners in transit;
- (c) payment of duty in foreign currency at ports of entry by individual travellers who opt to pay such duties in foreign currency, despite the fact that the dutiable goods in question are not designated goods.
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(5) Notwithstanding subsection (1) and (2), it is permissible to tender any of the foreign currencies referred to in subsection (1) in payment for—

- 15 (a) petrol or diesel dispensed to Guests of State at a specified Guest of State fuel outlet, that is to say, any fuel outlet licensed by the Zimbabwe Energy Regulatory Authority established by section 3 of the Energy Regulatory Authority Act [*Chapter 13:23*] to sell petrol or diesel in United States Dollars to Guests of State;
- (in this paragraph—
- 20 “diplomatic mission” has the same meaning as “mission” in the Privileges and Immunities Act [*Chapter 3:03*];
- “gazetted regional or international organisation” means any such organisation upon which privileges and immunities have been bestowed by the President in terms of section 7(1) of the Privileges and Immunities Act [*Chapter 3:03*];
- 25 “Guests of State” means diplomats and members of staff of diplomatic missions and members of staff of gazetted regional or international organisations);
- (b) international airline services.

30 **6 Adjustment after commencement of this Act of references to statutory fines, statutory monetary penalties and statutory fees**

(1) On and after the date of commencement of this Act, but no later than six months after such date—

- 35 (a) the Minister responsible for justice in consultation with the Minister responsible for finance, in relation to any statutory fine or statutory monetary penalty; or
- (b) the Minister of finance, in relation to statutory fees other than statutory fines or statutory monetary penalty;

40 may by statutory instrument made in terms of this subsection, prescribe a factor by which any statutory fine, statutory monetary penalty or statutory fee (including such fines, penalties and fees as are expressly denominated to be in “United States dollars”) shall be increased or reduced, with the result that—

- (c) any reference in any statute to such fine, penalty or fee shall be construed as having been adjusted accordingly from the date of promulgation of the statutory instrument; and
- 45 (d) any amount so adjusted shall be construed as an amount in Zimbabwe dollars.

- (2) The reference in this section to the payment of any “statutory fine”, “statutory monetary penalty” or “statutory fee” does not include—
- (a) the payment of any tax, duty or penalty for which specific provision concerning the manner and currency of payment of the same is made by or under the Finance Act, 2019 (No. 1 of 2019) or in any subsequent Finance Act; and 5
 - (b) the payment of any statutory fee by a person not ordinarily resident in Zimbabwe, or by a person the principal place of business of which is outside Zimbabwe, if the fee is specified by the enactment in question or by the Minister responsible for finance to be payable in a foreign currency. 10