

Explanatory and interpretational notes prepared by the Deutsche Bundesbank on the reporting regulations governing capital and payment transactions with non-residents pursuant to section 63 *et seq* of the Foreign Trade and Payments Regulation (*Außenwirtschaftsverordnung – AWV*)

Preliminary remarks

Bundesbank Notice No 8001/2007 became outdated as of the reporting month September 2013 and has been replaced by the following explanatory and interpretational notes prepared by the Bundesbank.

I General information

1 Statistical reports on capital and payment transactions with non-residents are used to compile the balance of payments for the Federal Republic of Germany and are published by the Bundesbank. They are also used to produce the German contribution to the balance of payments for the European monetary union and the European Union. Both at a national and international level, the balance of payments and the international investment position provide authorities responsible for economic and monetary policy as well as associations and enterprises with comprehensive and reliable information on the extent and structure of the external trade links of the economy in question. The high quality of the data provided essentially depends on the parties required to report in Germany submitting accurate and reliable reports. The purpose of these explanatory and interpretational notes is thus to summarise and briefly explain the key reporting regulations.

2 Residents generally have to report payments which they receive from non-residents or from residents for the account of non-residents (incoming payments) or make to non-residents or to residents for the account of non-residents (outgoing payments).

3 Payments between residents and non-residents within the meaning of section 67 (1) of the Foreign Trade and Payments Regulation comprise not only credit transfers to or from other countries but also credit transfers to or from accounts held by non-residents at domestic financial institutions as well as payments made using direct debit, cheques or bills, nettings and clearings and cash payments between residents and non-residents.

4 If further residents are involved in the payment transaction made between a resident and a non-resident, a distinction within the meaning of the reporting requirements pursuant to section 67 (1) of the Foreign Trade and Payments Regulation is to be made as to whether the additional residents involved settle their own assets/liabilities as part of the transaction or whether they are merely clearing the payments without making any of their own ("transit items").

If, for example, an intermediary resident's claim vis-à-vis a non-resident is settled by a payment made by the other resident, the resident making the payment has to report an "outgoing payment" and the domestic beneficiary has to report an "incoming payment" according to the respective legal transactions (eg code and country of the respective creditor/debtor).

However, in the case of simply forwarding payments, eg a resident insurance broker forwards premiums or claims payments from a resident insurer to a non-resident policyholder, only the resident insurer is required to report and not the intermediary broker (exempt "transit items"). Likewise, the forwarding of payments made between non-residents through residents or between residents through non-residents does not need to be reported.

Incoming and outgoing payments via a trustee account, which is kept by a resident "in their own name for the account of a third party" and through which only foreign claims and liabilities are settled (eg by a notary in the form of an escrow account), also need to be reported by the respective resident creditor or debtor and not the owner of the trustee account. If a trustee account holder submits the report, they must do so as a third-party submitter on a disclosed agency basis. To avoid duplicate reports, this procedure should be agreed upon with the party being represented.

5 The contribution of assets and rights by residents in enterprises, branches and permanent establishments abroad must also be reported (as an outgoing payment) as must the contribution of assets and rights by non-residents in enterprises, branches and permanent establishments in Germany (as an incoming payment).

6 Pursuant to section 67 (2) of the Foreign Trade and Payments Regulation, payments up to €12,500 or the equivalent in another currency are exempt from reporting requirements. Furthermore, payments for the import and export of goods as well as payments that involve granting, taking out or repaying loans (including the setting up and repayment of credit balances) with an originally agreed maturity or period of notice of no more than twelve months do not have to be reported (however, interest on these transactions must be reported).

Note: The definition of "export, import or transfer of goods" within the meaning of foreign trade and payments law is generally based on section 2 (3), (11), (21) and (22) of the Foreign Trade and Payments Act (*Außenwirtschaftsgesetz – AWG*). When applying section 67 (2) No 2 of the Foreign Trade and Payments Regulation, it should be noted that the exemption only applies to cross-border movements of **goods** that are recorded in the foreign trade statistics. This means that the "transfer of software or technology, including their provision by electronic means" still needs to be reported as a general rule under the balance of payments.

7 The reports on capital and payment transactions should generally be submitted electronically. The General statistics reporting portal (AMS) provides a simple, fast and secure way of submitting reports. However, report files can also be submitted electronically using ExtraNet Filetransfer (see point VI).

8 Meaningful information pertaining to the underlying payments or the so-called underlying transaction should be provided in the reports and the relevant codes of the Coding list of the Deutsche Bundesbank's balance of payments statistics (Annex LV to the Foreign Trade and

Payments Regulation) should be given. In the case of transactions in securities, the name of the securities, the international securities identification number (ISIN) and the nominal amount or the quantity are to be stated instead of information regarding the underlying transaction.

9 Payment reports on merchanting transactions must include, *inter alia*, the designation of the traded good, the two-digit chapter number of the "Directory of chapter numbers of international trade classification statistics" and the country of purchase and/or country of sale.

10 Incoming and outgoing payments are generally to be reported in **gross** terms. If, for example, different reciprocal services are netted or offset and the balance is merely settled, the underlying individual transactions are to be reported to the Bundesbank (in gross terms) in accordance with the coding list. The transfer of the residual amount (settlement) as such does not need to be reported.

11 Payments that exceed the reporting threshold and concern different types of transactions (eg loan repayment plus accrued interest) are to be described in the reports and differentiated by codes, even if each reporting item, taken by itself, is below the reporting threshold.

12 Please refer to the explanatory notes for the respective reports for information on reporting the creditor or debtor country. In the case of payments to or from international and supra-national organisations, the organisation's name and code are to be indicated instead of the country code.

13 Pursuant to section 63 of the Foreign Trade and Payments Regulation in conjunction with Annex A, section 2 of Council Regulation (EC) No 2223/1996, special provisions apply to the terms home country, residents and non-residents for capital and payment transactions. Reference to the EU Regulation allows methodologically correct classifications to be made even for unusual constellations. However, in day-to-day practice, the definitions hitherto in use generally continue to apply (eg classification of branches and permanent establishments (section 2 (5) and (15) and section 3 of the Foreign Trade and Payments Act)). Moreover, the divergent regulation which states that, for the purpose of the balance of payments, regarding the definition of residency status, a person must have lived in a place for one year for it to be deemed their habitual abode, continues to apply. Exception: foreign students, diplomats, members of the armed forces and their family members living in Germany are generally regarded as non-residents (the same applies to Germans living abroad).

14 In addition to transaction reports, pursuant to section 66 of the Foreign Trade and Payments Regulation, the respective status of claims and liabilities vis-à-vis non-residents at the end of the month is to be reported using annexes Z 5, Z5a sheets 1/1 and 1/2 as well as sheets 2/1 and 2/2 if the sum of the claims or the sum of the liabilities amounts to more than €5 million or the equivalent in another currency at the end of the month.

Monthly reports are to be made on "Claims and liabilities arising from financial operations with non-resident banks" (Annex Z 5), "Claims and liabilities arising from financial operations with affiliated non-resident non-banks" (Annex Z 5a sheet 1/1), "Claims and liabilities arising from financial operations with other non-resident non-banks" (Annex Z 5a sheet 1/2), "Claims and liabilities vis-à-vis affiliated non-resident non-banks arising from transactions in goods and services" (Annex Z 5a sheet 2/1) and "Claims and liabilities vis-à-vis other non-resident non-banks arising from transactions in goods and services" (Annex Z 5a sheet 2/2) (trade credit relations: credit terms granted and advance payments made in goods and service transactions).

Additionally, reports on "Claims and liabilities vis-à-vis non-residents arising from derivative financial instruments" (Annex Z 5b) are to be submitted on a quarterly basis if the claims or

liabilities arising from these financial relations amount to more than €500 million at the end of the quarter.

15 The status of the assets of residents living in foreign economic territories and the assets of non-residents living in Germany (direct investment stocks) are to be reported annually using Annex K 3 and Annex K 4 (sections 64 and 65 of the Foreign Trade and Payments Regulation). Reports are to be submitted if 10% or more of the shares or voting rights for the investment enterprise is directly attributable or, taken together, more than 50% is directly and indirectly attributable to the investor and if the direct investment enterprise's total assets exceed €3 million (converted). If the Bundesbank requests a party that is likely to be required to report to submit a K 3 or K 4 report and they are not actually required to report, or if they were previously required to report and this is no longer the case, a nil report is to be submitted to the Bundesbank. Further details may be found in the explanatory notes for the relevant reports.

II Special transactions in detail

1 Trade in gold

Trade (purchase/sale) in physical gold is recorded separately using code 989 (voucher type 1 and 2). This includes merchanting transactions and transactions in "other trade in goods". Imports and exports of gold in the course of payment transactions are exempt from reporting requirements. They are recorded in the foreign trade statistics.

In this context, incoming and outgoing payments for the purchase/sale of physical gold as well as imports and exports of physical gold in connection with so-called unallocated gold accounts (the gold consignment is not / is no longer identifiable) need to be reported.

By contrast, trading activities with gold in unallocated gold accounts within the meaning of short-term financial transactions and imports and exports of physical gold with so-called allocated gold accounts (no change in ownership, the gold consignment in question is and remains identifiable) are exempt from reporting requirements.

Stock reports (Z 5 etc) are unaffected by this. Further details can be found in the Notice on trade in precious metals.

2 Merchanting trade

In the merchanting trade (purchase and resale of goods by or to non-residents where the goods remain abroad; code 003), a distinction is no longer made between direct and indirect merchanting and warehouse transactions. (Merchanting) additional costs cannot be reported as an aggregate figure anymore; separate reports should be made according to the type of transaction. Goods located abroad that are sold to another resident (previously "indirect merchanting") are to be listed as "Other trade in goods" (code 997). Further details can be found in the Notice on merchanting trade.

3 Contract production

If goods owned by the customer are processed or handled in the contract and if payments occur in this context between residents and non-residents, these are to be reported as "contract production" (code 567) irrespective of any import or export operations. The contract fee also includes any components that the contract manufacturers themselves procure and use. Further details can be found in the Notice on contract production.

4 Construction services

Construction services exclusively refers to measures in plant construction, building construction and civil engineering. A distinction is also to be made between construction sites that

have existed for up to one year and over a year. The country in which the construction site is located is always to be stated as the creditor/debtor country. Further details can be found in the Notice on construction services.

5 Transport services

Separate reports are to be made for acquired or rendered transport services depending on the type of carrier used. If a combination of carriers is used for the service, the transport service is to be reported according to its main focus in terms of distance or costs. Further details can be found in the Notes on the coding list for the balance of payments statistics.

6 Intellectual property

Rights in relation to so-called intellectual property (copyrights, patents and licences) are to be broken down into the categories of "use", "distribution and reproduction rights" and "acquisition (purchase)". Further details can be found in the Notes on the coding list for the balance of payments statistics.

III Notes for financial institutions

1 Financial institutions are asked to inform their resident customers to adhere to the reporting regulations. Annex Z 4 to the Foreign Trade and Payments Regulation is to be used for all incoming and outgoing payments. Payments in connection with securities transactions and financial derivatives should be reported using Annex Z 10 to the Foreign Trade and Payments Regulation. Redemption payments by non-resident borrowers as well as funds repatriated from foreign safe depository accounts in connection with the redemption of domestic securities are to be recorded as receipts in Annex Z 10 to the Foreign Trade and Payments Regulation. Payments credited to accounts in Germany can be reported using Annex Z 4.

2 If incoming payments of more than €12,500 or the equivalent in another currency have clearly been made by non-residents, the customers should be notified of the reporting regulations pursuant to section 67 *et seq* of the Foreign Trade and Payments Regulation by including the following information in credit advice notes: "**AWV-Meldepflicht beachten – entgeltfreie Auskunft Tel.-Nr. 0800 – 1234 111**" ("Please note the reporting requirement pursuant to the Foreign Trade and Payments Regulation – for more information, call 0800 – 1234 111 (freephone when calling from within Germany)"). The same applies to debits by non-residents (eg cheque collection, direct debits) and other outgoing payments.

3 Domestic financial institutions merely acting as agents for foreign institutions (these include their own branches and subsidiaries) when conducting business with their customers, eg brokering of fixed-term deposits or loans, are asked to notify their customers about the reporting requirements pursuant to section 66 *et seq* of the Foreign Trade and Payments Regulation (reports on the status of claims and liabilities vis-à-vis non-residents; Annex Z 5 etc) and about reports on the granting and repayment of long-term loans (Annex Z 4). The same applies when credit claims against resident customers of domestic banks are assigned on a disclosed basis to non-residents. The customer notification of the assignment of the claims should always include a note informing them that the status of the external liabilities now has to be reported pursuant to section 66 of the Foreign Trade and Payments Regulation.

4 In addition to the special reporting regulations for financial institutions pursuant to section 70 of the Foreign Trade and Payments Regulation, the general requirements in section 67 *et seq* of the Foreign Trade and Payments Regulation should also be observed. This especially applies to payments relating to the assignment of claims (including borrowers' note loans) and to premiums received and interest income on foreign securities which exceed €12,500 or the equivalent in another currency.

5 As of 1 January 2005 (Bundesbank Circular 2/2005 from 17 January 2005), banks (MFIs) have been exempt from the requirement to report long-term credit transactions with non-residents. Financial institutions – insofar as they are monetary financial institutions – are no longer required to report the granting and repayment of loans to non-residents, including the assignment of claims vis-à-vis non-residents (external claims), as well as the setting up and repayment of credit balances at foreign banks with a maturity of more than twelve months and the taking out and repayment of loans from non-residents, including disclosed assignment of claims to domestic monetary financial institutions (domestic claims), and the setting up and repayment of non-residents' credit balances with a maturity of more than twelve months. This exemption also applies to payments relating to syndicated loans with non-residents.

6 Credit institutions' reports on their external position, which are required pursuant to section 18 of the Bundesbank Act, are not affected by the reporting requirements of the Foreign Trade and Payments Regulation.

IV Notes for insurance companies

1 For direct insurance transactions, when recording payments which are to be reported using codes 442 and 445, the **type of insurance** is also to be stated under purpose of payment.

2 The cost of loss prevention, general average contributions, survey and expertise costs etc are to be recorded as claims payments.

3 The previous regulation that resident brokers themselves are required to report when transferring incoming and outgoing payments between the insurer and the policyholder, whereas the domestic insurer is exceptionally exempt from reporting, no longer applies. This means that such payments need to be reported by the respective (direct) domestic contractual party (see also point I No 4)

4 If resident brokers merely transfer payments between non-resident insurance partners, these items are considered transit items from the broker's perspective and do not need to be reported. However, the commission of foreign brokers/agents from these transactions must be reported.

5 If premiums or claims payments arising from contracts with foreign insurance companies are transferred to or from residents by foreign brokers, the country of the insurance company that actually receives or makes the payment should generally be given.

6 We ask that receipts of (domestic) transportation insurance companies from premium payments made by residents to insure their foreign business are reported informally without a breakdown by country using the form available from the German Insurance Association (*Gesamtverband der Deutschen Versicherungswirtschaft e.V.*), Wilhelmstrasse 43/43G, 10117 Berlin, Germany (exception to electronic submission)

7 Contrary to the previous regulation, payments made in connection with reinsurance are to be reported in **gross** terms. Reports of clearing balances (clearing of premiums and claims payments), which were permitted to date, are no longer allowed. Contractual profit sharing (within the meaning of "premium refunds" due to low claim payments, for example) is to be reported under the (new) code 449.

V Notes for individuals

Individuals whose place of residence or habitual abode (longer than a year) is in Germany are also required to submit reports on their capital and payment transactions. These should also be submitted electronically as a general rule (see point VI). To do this, the party must, *inter alia*, apply for a numeric identifier/reporting number and register with the General statistics reporting portal (AMS). Individuals who only **occasionally** make payments to non-residents or receive payments from non-residents may by way of exception report payments exceeding the reporting threshold of €12,500 by telephone using the **hotline 0800 1234 111** (free of charge in Germany). However, this does not apply to reports regarding foreign direct investment stock statistics (annexes K 3 and K 4). Until further notice, these can be submitted in paper form.

VI Reports and corrections

Reports on capital and payment transactions are to be submitted **electronically** in compliance with the Bundesbank's technical provisions. This applies to both transaction reports and stock reports. To this end, the Bundesbank *inter alia* provides reporting parties with free access to the General statistics reporting portal (AMS) on its website. The data can either be entered directly on the computer or transmitted in reports which have already been generated electronically (eg from accounting). Prior to using the portal, you will need to register on a one-off basis. Reporting files can also be submitted securely in electronic form using Extra-Net Filetransfer.

A distinction is made between the following capital and payment transaction reports:

Payments relating to external transactions	(Annex Z 4 to the Foreign Trade and Payments Regulation)
Claims and liabilities arising from financial operations with non-resident banks	(Annex Z 5 to the Foreign Trade and Payments Regulation)
Claims and liabilities arising from financial operations with affiliated non-resident non-banks	(Annex Z 5a to the Foreign Trade and Payments Regulation sheet 1/1)
Claims and liabilities arising from financial operations with other non-resident non-banks	(Annex Z 5a to the Foreign Trade and Payments Regulation sheet 1/2)
Claims and liabilities vis-à-vis affiliated non-resident non-banks arising from transactions in goods and services	(Annex Z 5a to the Foreign Trade and Payments Regulation sheet 2/1)
Claims and liabilities vis-à-vis other non-resident non-banks arising from transactions in goods and services	(Annex Z 5a to the Foreign Trade and Payments Regulation sheet 2/2)
Claims and liabilities vis-à-vis non-residents arising from derivative financial instruments	(Annex Z 5b to the Foreign Trade and Payments Regulation)
Receipts from and expenditure on maritime shipping	(Annex Z 8 to the Foreign Trade and Payments Regulation)

Securities and financial derivatives transactions with non-residents	(Annex Z 10 to the Foreign Trade and Payments Regulation)
Income payments on securities vis-à-vis non-residents	(Annex Z 11 to the Foreign Trade and Payments Regulation)
Incoming and outgoing payments in foreign travel: volume of card transactions	(Annex Z 12 to the Foreign Trade and Payments Regulation)
Incoming and outgoing payments in foreign travel: foreign currency and foreign currency travelers' cheques	(Annex Z 13 to the Foreign Trade and Payments Regulation)
Interest income and similar receipts in foreign trade and payments (excluding interest on securities)	(Annex Z 14 to the Foreign Trade and Payments Regulation)
Interest expenditure and similar expenditure in foreign trade and payments (excluding interest on securities)	(Annex Z 15 to the Foreign Trade and Payments Regulation)
Residents' assets in foreign economic territories	(Annex K 3 to the Foreign Trade and Payments Regulation sheets 1 and 2)
Non-residents' assets in Germany	(Annex K 4 to the Foreign Trade and Payments Regulation sheets 1 and 2)

Correction reports for payment reports

Pursuant to sections 64 *et seq* of the Foreign Trade and Payments Regulation, reports submitted on capital and payment transactions must be correct and complete. If reported positions are later found to be erroneous, they must be corrected. The obligation to submit corrections applies, for reasons of simplicity, to erroneous reporting positions concerning the current year and the two preceding calendar years.

Correction reports must be submitted promptly once an error has been identified and must be designated as such (eg in the "purpose of payment" field). The incorrect reporting item should first of all be cancelled by marking it with a minus sign. A new reporting item with the correct data can then be created (in the AMS, once an item is corrected, the system automatically creates a minus item to cancel and offset the original item). This new reporting position must refer to the original reporting month.

Transactions where, for example, at first a lump sum was agreed on and paid for a service and later compensation payments are made as part of a final settlement (credit transactions and adjustment charges) are also considered "corrections" ("± entries") in this context. The corrections should generally contain the codes of the payments in question (the respective "underlying transaction"). Further details can be found in the Notice on correction reports.

VII Further information

Samples of the respective reports and relevant explanatory notes, the coding list (Annex LV to the Foreign Trade and Payments Regulation) with explanatory notes on the payment items

for the balance of payments statistics (September 2013), as well as various notices, circulars and information on electronic reports are available free of charge on the Bundesbank's website at

https://www.bundesbank.de/Navigation/EN/Service/Reporting_systems/External_sector/external_sector_statistics.html

If you have any further questions, please do not hesitate to contact us at statistik-s21@bundesbank.de.

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