

Financial Surveillance Department

2010-12-20

Exchange Control Circular No. 49/2010

South African Private Equity Funds

Flowing from representations made Authorised Dealers are advised of the following amendments to the Exchange Control Rulings:

Section B.2(B)

The entire subsection (v) has been deleted and substituted with the following:

“(v) South African Private Equity Funds

- (a) Private equity funds that are members of the South African Venture Capital Association, mandated to invest into Africa, may apply to the Financial Surveillance Department for approval to invest into Africa. The following information must accompany such applications:

- (aa) A copy of the local en-commandite partnership’s mandate to invest into Africa or in the case of a local fund running parallel with an offshore fund, a copy of the co-investment agreement between the local and foreign partnership;
 - (bb) cash flow projections for a 36 month period indicating the amount of capital to be exited from South Africa for investment purposes into Africa; and

- (cc) confirmation that the local private equity fund will obtain a minimum of 10 per cent of the voting rights in the respective investment into Africa. In the context of a local fund running parallel with an offshore fund where the private equity fund is managed from South Africa, the minimum 10 per cent requirement may be measured on a fund-wide basis, after the conversion of investment rights into voting rights.
- (b) Applications will also be considered where an unintended loop structure is created as a result of private equity funds investing into companies in the rest of Africa with a portion of their business in South Africa.
- (c) It must be borne in mind that institutional investors must be aware that in terms of the look through principle, any offshore acquisitions held indirectly via the local private equity fund must be marked off against the respective foreign portfolio investment allowances. The Financial Services Board Regulations governing the permissibility of these investments as part of their portfolios, must also be complied with.”

It is envisaged that this modernised exchange control framework for private equity investments will enable domestic private equity firms to compete effectively globally and ensure a steady base for dividend flows into South Africa, making the country a regional hub for investments into the rest of Africa.

Replacement pages of the Exchange Control Rulings incorporating the relevant amendments are attached hereto.

Deputy General Manager