



South African Reserve Bank

Financial Surveillance Department

2011-10-03

Exchange Control Circular No. 11/2011

Amendments to the Exchange Control Rulings

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

Section B.1(G)

The heading has been deleted and substituted with the following: **"COMPUTER SOFTWARE"**

The entire section has been deleted and substituted with the following:

- "(i) Importation of computer software
- (a) Authorised Dealers may effect payment in respect of the importation of computer software and specific custom-made computer software products, including any licence fees which may be payable, against the production of documentary evidence confirming the purpose and amount payable.
 - (b) The requirements of subsection (B)(i) above should be adhered to, where applicable.

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(ii) Local reproduction or copying of computer software packages

- (a) Authorised Dealers may approve royalty payments to non-residents, including any licence fees, which are payable from the local reproduction or copying of computer software packages provided that:
 - (aa) where applicable, advance payments are fully recoupable from future royalty payments;
 - (bb) the licensor is an unrelated party, i.e. none of the parties have any direct/indirect interest or shareholding in each other;
 - (cc) the royalties payable are based on net sales specifically related to the computer software package;
 - (dd) the application is accompanied by documentary evidence confirming the purpose and amount payable; and
 - (ee) requests for minimum royalty payments are referred to the Financial Surveillance Department, together with a copy of the agreement entered into and supporting documentation motivating the rationale for the minimum payment.

(iii) Maintenance payments to non-residents in respect of computer software

Authorised Dealers may effect maintenance payments applicable to computer software packages, in advance and/or retrospectively, against documentary evidence confirming the purpose and amount payable.

(iv) Payment for computer software downloaded electronically via the Internet

Authorised Dealers may effect payment in respect of software, which is downloaded via the Internet (the actual program and/or the activation code) against documentary evidence confirming the purpose and amount payable.

(v) Extension of agreements

Authorised Dealers may, where applicable, approve the extension of the agreements authorised in (i) to (iv) above as well as agreements previously approved by the Financial Surveillance Department, provided that the agreement originally entered into makes provision for an extension or an addendum to the agreement is viewed confirming the extension thereof."

Section B.3 (D)(iv)(a) and (b)

The entire subsections have been deleted and substituted with the following:

- "(a) Authorised Dealers may approve applications by residents to make payments in respect of consultancy, management and service agreements entered into with non-residents, provided that:
- (aa) Authorised Dealers view, where applicable, the agreement entered into between the parties;
 - (bb) the non-resident is an unrelated party, i.e. none of the parties have any direct/indirect interest or shareholding in each other;
 - (cc) fees are based on fixed or actual costs incurred plus, where applicable, a profit margin of up to 10 per cent. Where fees are calculated on a percentage of turnover or minimum payments need to be effected, a suitable application should be submitted to the Financial Surveillance Department; and
 - (dd) the application is accompanied by documentary evidence confirming the purpose and amount payable.
- (b) Authorised Dealers may, where applicable, approve the extension of the agreements authorised in (iii) and (iv) above as well as agreements previously approved by the Financial Surveillance Department, provided that the

agreement originally entered into makes provision for an extension or an addendum to the agreement is viewed confirming the extension thereof."

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

A handwritten signature in black ink, appearing to read "Chad", with a stylized flourish at the end.

Deputy General Manager