

Currency and Exchanges guidelines for individuals

2020-12-14



South African Reserve Bank



Financial Surveillance Department

Version control sheet for the Currency and Exchanges guidelines for individuals

Version number	Issue date	Circular number
1.0	2016-07-29	7-2016
1.1	2016-11-03	9-2016
1.2	2017-01-03	2-2017
1.3	2017-03-01	7-2017
1.4	2017-08-25	10-2017
1.5	2017-08-30	11-2017
1.6	2017-11-17	13-2017
1.7	2018-02-02	2-2018
1.8	2018-05-07	8-2018
1.9	2018-05-28	10-2018
1.10	2018-06-22	11-2018
1.11	2018-08-02	12-2018
1.12	2018-09-03	14-2018
1.13	2018-10-11	15-2018
1.14	2018-10-31	16-2018
1.15	2019-02-08	2-2019
1.16	2019-02-08	3-2019
1.17	2019-03-05	4-2019
1.18	2019-03-05	5-2019
1.19	2019-04-18	7-2019 and 9-2019
1.20	2019-07-02	13-2019
1.21	2019-07-18	15-2019
1.22	2019-11-12	23-2019 and 24-2019
1.23	2020-06-10	4-2020
1.24	2020-07-10	5-2020
1.24	2020-08-13	6-2020
1.25	2020-10-02	11-2020
1.26	2020-10-08	12-2020
1.27	2020-10-14	13-2020
1.28	2020-12-14	19-2020

Disclaimer

The Currency and Exchanges guidelines for individuals (guidelines) are issued to assist individuals and other interested parties by providing a general understanding of the exchange control system in the Republic of South Africa. It does not have any statutory force nor does it replace or supersede the Exchange Control Regulations (Regulations) promulgated in terms of section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933) or any permission, exemption or condition granted or attached to certain transactions in terms of the Regulations.

The arrangements set out in the guidelines should in no manner be construed as absolving individuals from their duties and obligations under any other law, including but not limited to the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) and the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004).

The Financial Surveillance Department of the South African Reserve Bank (Financial Surveillance Department) views contraventions of the Exchange Control Regulations, as well as any actions to circumvent the permissions and conditions contained in the Currency and Exchanges Manual for Authorised Dealers in foreign exchange (Authorised Dealer Manual) and the Currency and Exchanges Manual for Authorised Dealers in foreign exchange with limited authority (ADLA Manual) in a serious light.

The Exchange Control Regulations, Orders and Rules, Authorised Dealer Manual and the ADLA Manual are available on the South African Reserve Bank website: www.resbank.co.za.

---oOo---

Table of contents

Disclaimer	2
Definitions	5
1. Introduction	9
2. Authorised entities	9
2.1 Authorised Dealers	9
2.2 Authorised Dealer in foreign exchange with limited authority	10
3. South African resident individuals	11
3.1 Single discretionary allowance	11
3.2 Krugerrand coins	12
3.3 Travel allowance	12
3.4 Study allowances	13
3.5 Residents temporarily abroad	14
3.6 Foreign capital allowance	15
3.6.1 Limits	15
3.6.2 Conditions	15
3.6.3 Funding structure	16
3.6.4 Income earned abroad and foreign capital introduced	16
3.7 Import payments	16
3.7.1 Import payments via credit and/or debit cards	17
3.7.2 Import payments via an Authorised Dealer in foreign exchange	17
3.7.3 Philatelic imports and numismatic imports	18
3.8 Miscellaneous commercial payments and receipts	18
3.9 Securities control	19
3.10 Legacies and distributions	19
3.10.1 Legacies and distributions from resident estates	19
3.10.2 Gifts and/or donations from non-residents	20
3.10.3 Foreign inheritance and legacies from bona fide non-resident estates	20
3.10.4 Foreign inheritance and legacies from South African estates with foreign assets	20
3.11 Export of goods	21
3.12 Residents borrowing abroad	22
4. Emigrants	24
5. Foreign nationals	28
6. Immigrants	29
7. The cross-border foreign exchange transaction reporting requirements	31
7.1 Integrated form	32
8. Transactions with Common Monetary Area residents	32
8.1 Introduction	32
8.2 General	33
8.3 Travel	33
8.4 Export of motor vehicles	33

---oOo---

Definitions

In the Currency and Exchanges guidelines for individuals, unless the context indicates otherwise:

ADLA means an Authorised Dealer in foreign exchange with limited authority, including Bureaux de Change, independent money transfer operators and value transfer service providers, who are authorised by the Financial Surveillance Department to deal in foreign exchange transactions as determined by the Financial Surveillance Department.

ADLA Manual means the Currency and Exchanges Manual for ADLAs issued by the Financial Surveillance Department to ADLAs under the powers delegated by the Minister of Finance. The ADLA Manual contains the permissions, conditions and limits applicable to the transactions in foreign exchange that may be undertaken by ADLAs and/or on behalf of their clients, as well as details of related administrative responsibilities.

Authorised Dealer means, in relation to any transaction in respect of gold, a person authorised by the Treasury to deal in gold and, in relation to any transaction in respect of foreign exchange, a person authorised by the Treasury to deal in foreign exchange.

Authorised Dealer Manual means the Currency and Exchanges Manual for Authorised Dealers issued by the Financial Surveillance Department to Authorised Dealers under the powers delegated by the Minister of Finance. The Authorised Dealer Manual contains the permissions, conditions and limits applicable to the transactions in foreign exchange that may be undertaken by Authorised Dealers and/or on behalf of their clients, as well as details of related administrative responsibilities.

CMA means the Common Monetary Area, which consists of Lesotho, Namibia, South Africa and eSwatini.

Cross-border foreign exchange transaction means the purchase or sale of foreign exchange with or for Rand.

Customs means Customs and Excise, a division of the South African Revenue Service.

Emigrant means a South African resident who is leaving or has left South Africa to take up permanent residence in any country outside the CMA.

Emigrant capital account means the account of an emigrant from the CMA, which account holds the emigrant's remaining South African assets to which Financial Surveillance Department restrictions have been applied.

Financial assistance includes the lending of currency, the granting of credit, the taking up of securities, the conclusion of a hire purchase or a lease, the financing of sales or stocks, discounting, factoring, the guaranteeing of acceptance credits, the guaranteeing or acceptance of any obligation, a suretyship, a buy-back and a leaseback, but excluding:

- (i) the granting of credit by a seller in respect of any commercial transaction directly involving the passing of ownership of the goods sold from seller to purchaser; and
- (ii) the granting of credit solely in respect of the payment for services rendered.

Financial Surveillance Department means the Financial Surveillance Department of the South African Reserve Bank (responsible for the administration of exchange control on behalf of the Treasury).

Foreign bank account means a foreign currency bank account conducted by residents with a bank outside the CMA in terms of the provisions of the Authorised Dealer Manual or a specific authority granted by the Financial Surveillance Department.

Foreign currency means any currency other than currency that is legal tender in South Africa, but excludes the currencies of Lesotho, Namibia and eSwatini. Foreign currency is deemed to include any bill of exchange, letter of credit, money order, postal order, promissory note, Rand to or from a Non-resident Rand account, travellers cheque or any other instrument of foreign exchange.

Foreign currency account means an account conducted by residents and non-residents in the nostro-administration of Authorised Dealers in terms of the provisions of the Authorised Dealer Manual or a specific authority granted by the Financial Surveillance Department.

Foreign direct investment means the objective of obtaining a lasting interest by a resident entity in one economy (direct investor) in an entity resident in an economy other than that of the investor (direct investment enterprise). The lasting interest implies the existence of a long-term relationship between the direct investor and the direct investment enterprise, and a significant degree of influence on the management of the enterprise. A direct investment enterprise is defined as 'an incorporated or unincorporated enterprise in which a foreign investor owns 10 per cent or more of the ordinary shares or voting power of an incorporated enterprise or the equivalent of an unincorporated enterprise'.

Foreign nationals mean natural persons from countries outside the CMA who are temporarily resident in South Africa, excluding those on holiday or business visits.

Gold as referred to in Regulations 2 and 5 includes all forms of gold other than wrought gold, as well as ingots, amalgam, concentrates or salts of gold buttons and trade scrap. Gold as referred to in Regulation 3 includes wrought gold and gold coins.

Immigrants mean natural persons who immigrated from countries outside the CMA with the firm intention of taking up or who have taken up permanent residence in South Africa.

Integrated form means the electronic or paper format of a contract between an Authorised Dealer or ADLA and its client resulting in a balance-of-payments reporting obligation. It includes a declaration to the effect that the information provided is true and correct.

ITAC means International Trade Administration Commission of South Africa established in terms of section 7 of the International Trade Administration Act, 2002 (Act No. 71 of 2002).

MRN means the Movement Reference Number issued by Customs once goods have been cleared.

Non-resident means a person (i.e. a natural person or legal entity) whose normal place of residence, domicile or registration is outside the CMA.

Non-resident Rand means Rand to or from a non-resident account that may be deemed, in certain circumstances permissible elsewhere in the Authorised Dealer Manual, as an acceptable payment mechanism in lieu of foreign currency. It should be noted that non-resident Rand cannot in any manner be defined as foreign currency. It is purely Rand held in a non-resident account or Rand received from a non-resident source.

Non-resident Rand account means the Rand account of a non-resident conducted in the books of an Authorised Dealer.

Passenger ticket means a ticket issued in respect of travel arrangements, inclusive of electronically issued tickets (e-tickets).

Rand means the monetary unit of South Africa as defined in section 15 of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989).

Regulations mean the Exchange Control Regulations, 1961 as promulgated by Government Notice R.1111 of 1961-12-01, as amended from time to time.

Related party means a party to a transaction that has a direct or indirect interest in the other party and has the ability to control the other party or exercise significant influence over the other party in making financial and operating decisions or both parties are under common control. For the purpose of the Authorised Dealer Manual, this includes transactions between parties that belong to the same group of companies such as parent, subsidiary, fellow subsidiary and/or an associate company.

Reporting System means the electronic FinSurv Reporting System used to transmit data to the Financial Surveillance Department in an agreed format.

Resident means any person (i.e. a natural person or legal entity) who has taken up permanent residence, is domiciled or is registered in South Africa.

Resident temporarily abroad means any resident who has departed from South Africa to any country outside the CMA with no intention of taking up permanent residence in another country, but excluding those residents who are abroad on holiday or business travel.

Restricted Authorised Dealer means a person authorised by the Financial Surveillance Department to deal in foreign exchange utilising a locally issued credit card for permissible cross border transactions.

SADC means the Southern African Development Community consisting of Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mocambique, Namibia, Seychelles, South Africa, eSwatini, United Republic of Tanzania, Zambia and Zimbabwe.

SARS means the South African Revenue Service.

SARS Customs Declaration comprises the following set of documents:

- (a) **SARS Customs Declaration form**, which is the form used by Customs to verify importers or exporters' self-assessment of goods declared for a Customs procedure. The customs procedure is defined by the Procedure Category Code (A to L) in conjunction with the Customs Requested Procedure Code (RPC) on the declaration; and
- (b) **SARS Customs Supporting documentation**, which is the commercial documents (e.g. suppliers invoice, regulatory permit, transport document, currency conversion/duty calculation worksheet) upon which the SARS Customs Declaration Form is completed; and
- (c) **SARS Customs Status Notification**, which is the response issued by Customs (Electronic Data Interchange (EDI) Response Notification/Customs Release Notification) specifying the status or decision of Customs in respect of goods declared.

Single discretionary allowance means the R1 million allowance available to residents (natural persons) 18 years and older per calendar year.

Securities include quoted stocks, shares, warrants, debentures and rights, as well as unquoted shares in public companies, shares in private companies, Government, Municipal and Public utility stocks, non-resident owned mortgage bonds and/or participations in mortgage bonds and short-term debt instruments. The terms scrip and share certificates include any temporary or substitute documents of title such as Letters of Allocation, Warrants, Letters of Allotments, Orphan Certificates, Balance Receipts and any other receipts for scrip.

South Africa means the Republic of South Africa.

Treasury means, in relation to any matter contemplated in the Regulations, the Minister of Finance or an officer in National Treasury who, by virtue of the division of work in National Treasury, deals with the matter on the authority of the Minister of Finance.

---oOo---

1. Introduction

This document provides an overview of permissible foreign exchange related transactions and the applicable requirements for individuals including residents emigrants, immigrants, foreign nationals and CMA residents when transacting with Authorised Dealers or with ADLAs within the parameters of their respective appointment letters.

Enquiries must be directed to an Authorised Dealer or, where applicable, an ADLA. Any request to the Financial Surveillance Department must be channelled through an Authorised Dealer or ADLA. Full details applicable to the request must be provided to the Authorised Dealer or ADLA who will place a comprehensive request before the Financial Surveillance Department.

2. Authorised entities

2.1 Authorised Dealers

The offices in South Africa of the under mentioned banks are authorised to act, for the purposes of the Exchange Control Regulations, as Authorised Dealers:

Name of entity - Authorised Dealer
ABSA Bank Limited
Albaraka Bank Limited
Bank of China Johannesburg Branch
Bank of India
Bank of Taiwan South Africa Branch
Bidvest Bank Limited
BNP Paribas SA – South Africa Branch
Capitec Bank Limited
China Construction Bank, Johannesburg Branch
Citibank, N.A., South Africa
Deutsche Bank AG, Johannesburg Branch
FirstRand Bank Limited
Goldman Sachs International Bank, Johannesburg Branch
Grobank Limited
Habib Overseas Bank Limited
HBZ Bank Limited
HSBC Bank plc - Johannesburg Branch
Investec Bank Limited
JPMorgan Chase Bank (Johannesburg Branch)
Mercantile Bank Limited
Nedbank Limited
Sasfin Bank Limited

Standard Chartered Bank – Johannesburg Branch
State Bank of India
The Standard Bank of South Africa Limited

Restricted Authorised Dealer

The office in South Africa of the under-mentioned bank is authorised to act, for the purposes of the Regulations, as a Restricted Authorised Dealer in respect of permissible credit card transactions per the quoted sections of the Currency and Exchanges Manual for Authorised Dealers:

Name of entity – Restricted Authorised Dealer
African Bank Limited – Sections B.4(B) and B.16
Bank Zero Mutual Bank (BZMB) – Sections B.4(B) and B.16
Discovery Bank Limited – Sections B.4(B) and B.16
Tyme Bank Limited – Sections B.4(B) and B.16

2.2 Authorised Dealer in foreign exchange with limited authority

The offices in South Africa of the entities listed hereunder are authorised to act, for the purposes of the Regulations, as ADLAs. The ADLAs, dependent on their category of appointment, are only authorised to conclude travel related transactions and certain specified transactions under the single discretionary allowance:

Name of entity – ADLA	Category of appointment
Imali Express (Pty) Limited	One
Forex World (Pty) Limited	Two
Global Foreign Exchange (Pty) Limited	Two
Inter Africa Bureau de Change (Pty) Limited	Two
Interchange RSA (Pty) Limited	Two
Master Currency (Pty) Limited	Two
Mukuru Africa (Pty) Limited	Two
Sikhona Forex (Pty) Limited	Two
Tourvest Financial Services (Pty) Limited	Two
Travelex Africa Foreign Exchange (Pty) Limited	Two
Cassava Fintech (Pty) Limited	Three (MTO)
Kawena Exchange (Pty) Limited	Three (VTSP)
Shoprite Money Transfers (Pty) Limited	Three (MTO)
Terra Payment Services South Africa (RF) (Pty) Limited	Three (MTO)
WorldRemit South Africa (Pty) Limited	Three (MTO)

Name of entity – ADLA	Category of appointment
Hello Paisa (Pty) Limited	Four
Mama Money (Pty) Limited	Four
Southeast Exchange Company (South Africa) (Pty) Limited	Four
Tower Bureau de Change (Pty) Limited	Four

- *Category One : Travel related transactions only.
- Category Two : Travel related transactions and certain prescribed single discretionary allowance of R1 million per applicant within the calendar year and offer money remittance services in partnership with external money transfer operators.
- Category Three: Independent money transfer operator or value transfer service provider, facilitating transactions not exceeding R5 000 per transaction per day within a limit of R25 000 per applicant per calendar month.
- Category Four : A combination of the services provided by Category Two and Category Three ADLAs.

Individuals wishing to avail of the value transfer service dispensation granted to a local category three ADLA must approach same.

3. South African resident individuals

The foreign exchange restrictions on South African resident individuals have been liberalised with the intention of reducing the administrative burden for individuals undertaking foreign exchange transactions.

Individuals are permitted to conduct a foreign currency account with an Authorised Dealer and/or a foreign bank account for the following purposes:

- (a) for travel as authorised (see section 3.3 (h));
- (b) foreign investment (see sections 3.1 and 3.6);
- (c) legitimate foreign earned income (see section 3.6.4); and
- (d) foreign inheritance (see section 3.10).

The following dispensations listed hereunder are available to individuals:

3.1 Single discretionary allowance

- 3.1.1 A single discretionary allowance within a limit of R1 million per calendar year is available to all South African residents who are 18 years and older, and in possession of a valid green bar-coded South African identity document or smart identity document card. This dispensation may be used for any legitimate purpose (including

for investment purposes abroad as well as the sending of gift parcels in lieu of cash excluding gold and jewellery) at the discretion of the individual without any documentary evidence having to be produced to the Authorised Dealer, except for travel purposes outside the CMA, where certain prescribed documentation has to be produced.

- 3.1.2 Foreign currency in the form of foreign notes may only be accorded by an Authorised Dealer or ADLA for travel purposes.
- 3.1.3 Resident importers making import payments under this dispensation must have a valid customs client number (CCN) issued by Customs. The registration code number 70707070 may be used only in cases where the value of goods imported is less than R50 000 per consignment, subject to the limitation of three such consignments per calendar year. The attention of importers is drawn to the requirement that the consignment for which payment has been made from South Africa must be received within four months from the date of payment. Should such consignment not be received within the four month period, the importer must within 14 days of the expiry of such period advise the Authorised Dealer through whom foreign currency was purchased.
- 3.1.4 Individuals should note that when effecting payments for current account transactions such payments may be made against the presentation to an Authorised Dealer of documentary evidence in terms of subsection 3.7, while any other legitimate payment may also be effected in terms of subsection 3.8 below. Such payments will not be deducted from an individual's single discretionary allowance limit of R1 million per calendar year.

3.2 Krugerrand coins

In addition to the single discretionary allowance, residents may export Krugerrand coins or the equivalent in fractional Krugerrand coins up to an amount of R30 000 as gifts to non-residents, subject to the completion of the prescribed SARS Customs Declaration.

3.3 Travel allowance

- 3.3.1 Individuals may also use the single discretionary allowance to avail of a travel allowance through an Authorised Dealer or ADLA subject to the following conditions:
 - (a) individuals, who are under the age of 18 years may not avail of a single discretionary allowance as outlined in subsection 3.1 above, but may avail of a travel allowance not exceeding an amount of R200 000 per calendar year;
 - (b) individuals may not avail of a travel allowance more than 60 days prior to their departure and must present a valid passenger ticket when travelling by air, bus, rail or ship;
 - (c) foreign currency may be availed of in foreign currency notes or traveller's cheques. The travel allowance may be transferred abroad to the traveller's own bank account and/or spouse accounts, but not to the account of a third

party. Minors travelling with parents, may have their travel allowances transferred to their parents' bank account abroad;

- (d) bank credit and/or debit cards may also be used to avail up to 100 per cent of the authorised prescribed or remaining allowance;
- (e) in the event of any contravention of the provisions of the Regulations a cardholder may be deprived of the use of all cards apart from being liable to prosecution;
- (f) any unused foreign currency must be resold within 30 days to an Authorised Dealer or ADLA upon return to South Africa. However, business travellers going abroad on recurring business trips, where the next business trip is to commence within 90 days after returning from a previous business trip, any unutilised foreign currency may be retained by the traveller for use during subsequent business trips;
- (g) up to R25 000 in Rand notes, per person, may be taken in addition to the travel allowance, when proceeding on visits outside the CMA, to meet the travellers' immediate needs on return to South Africa;
- (h) a travel allowance may only be accorded by an Authorised Dealer or ADLA to a travellers abroad, without returning to South Africa, provided that the annual limit is not exceeded; and
- (i) foreign currency may be purchased by foreign diplomats, accredited foreign diplomatic staff as well as students with a valid student identity card from other CMA member countries whilst in South Africa. CMA residents, in South Africa, may be accorded foreign currency to cover unforeseen incidental costs whilst in transit, subject to an Authorised Dealer or ADLA viewing a passenger ticket confirming a destination outside the CMA.

3.4 Study allowances

- 3.4.1 Individuals proceeding abroad for study purposes may avail of the R1 million single discretionary allowance. Spouses accompanying students also qualify for the aforementioned facility.

Students may also export any household and personal effects, including jewellery (but excluding motor vehicles), up to a value of R200 000 per student under cover of the prescribed SARS Customs Declaration.

In addition to the foregoing, Authorised Dealers may transfer directly to the institution concerned the relative tuition and academic fees for the academic year, against documentary evidence confirming the amount involved.

Students under the age of 18 years also qualify for a study allowance to pay for costs associated with their studies abroad as well as a travel allowance of R200 000 per calendar year.

To avail of this dispensation, residents must produce to an Authorised Dealer:

- (a) documentary evidence from the institutions concerned confirming that the student has been enrolled for a course for the period claimed; and
- (b) evidence of the tuition and academic fees in the form of a letter or prospectus from the institution to be attended.

3.4.2 Should a student require a continuation of the above-mentioned transfers during a period following the initial 12 months, fresh documentary evidence complying with the requirements of 3.4.1 (a) and (b) above must be submitted to an Authorised Dealer.

3.5 Residents temporarily abroad

3.5.1 A resident proceeding abroad temporarily, may on departure and annually thereafter, through an Authorised Dealer and/or ADLA, avail of the R1 million single discretionary allowance and the R10 million foreign capital allowance without returning to South Africa (see subsection 3.6 below). The green barcoded identity document or Smart identity document card must be presented to an Authorised Dealer prior to the resident travelling temporarily abroad. In addition, with regard to the R10 million foreign capital allowance, a TCS PIN verifying the taxpayer's tax compliance status obtained via SARS eFiling must be presented to an Authorised Dealer prior to effecting any transfers. Authorised Dealers must ensure that the amount to be transferred does not exceed the amount approved by SARS. Authorised Dealers should note that the TCS PIN can expire and should the Authorised Dealers find that the TCS PIN has indeed expired, then the Authorised Dealer must insist on a new TCS PIN verifying the taxpayer's tax compliance status.

Where residents temporarily abroad make use of a general or special power of attorney to facilitate future transfers, a certified copy of the valid green barcoded identity document or Smart ID card must accompany the power of attorney.

The annual limit of the R1 million single discretionary allowance and the R10 million foreign capital allowance dispensations may not be exceeded without prior Financial Surveillance Department approval.

Residents temporarily abroad may use their local debit and/or credit cards whilst temporarily abroad within the overall single discretionary allowance limit of R1 million per applicant during a calendar year.

- 3.5.2 Residents temporarily abroad may further receive pension and retirement annuity income but no other foreign currency may be availed of without the specific approval of the Financial Surveillance Department.
- 3.5.3 Any household and personal effects, motor vehicles, caravans, trailers, motorcycles, stamps and coins (excluding coins that are legal tender in South Africa) per family unit or single person, where the insurance value does not exceed R1 million may be exported against the prescribed SARS Customs Declaration.
- 3.5.4 Farming implements, where the insurance value does not exceed R1 million, may be exported, against the prescribed SARS Customs Declaration, by persons proceeding into Africa for farming purposes.

3.6 Foreign capital allowance

3.6.1 Limits

A foreign capital allowance may be availed of through an Authorised Dealer, which may be transferred to a foreign currency account with a local Authorised Dealer or invested abroad, within a limit of R10 million per calendar year per individual, subject to a TCS PIN verifying the taxpayer's tax compliance status and green bar-coded South African identity document or Smart identity document card and is 18 years and older.

The funds to be transferred must be converted to foreign currency by an Authorised Dealer.

The Financial Surveillance Department will consider applications by private individuals via an Authorised Dealer to invest in different asset classes offshore in addition to the abovementioned allowance. Private individuals wishing to avail of this dispensation must first approach SARS to obtain a TCS PIN verifying their tax compliance status report, which must accompany their application to the Financial Surveillance Department for consideration.

3.6.2 Conditions

Individuals may not utilise funds in terms of the aforementioned dispensation or any other authorised foreign assets to enter into a transaction or a series of transactions to directly or indirectly acquire shares or some other interests in a CMA asset (i.e. through a 'loop structure'). Similarly, such funds may not be re-introduced as a loan to a CMA resident.

However, unintentional 'loop structures' created with legal foreign capital invested with non-resident asset or fund managers who invest in foreign companies that have CMA assets and/or offshore global investment funds that directly or indirectly holds CMA investments over which the South African investor has no control, are permitted.

The transfer of South African owned intellectual property by way of sale, assignment or cession and/or the waiver of rights in favour of non-residents in whatever form, directly or indirectly, is not allowed without the prior written approval of the Financial Surveillance Department.

South African residents may, however, sell, transfer and assign intellectual property to unrelated non-resident parties at an arm's length and a fair and market related price, provided they present to Authorised Dealers the sale, transfer or assignment agreement and an auditor's letter or intellectual property valuation certificate confirming the basis for calculating the sale price. The dispensation excludes sale and lease back agreements.

All inward funds emanating from such transactions must be repatriated to South Africa within a period of 30 days from the date of becoming entitled thereto.

South African residents may license intellectual property to non-resident parties at an arm's length and a fair and market related price for the term of the agreement, provided that they present Authorised Dealers with the licence agreement and an auditor's letter confirming the basis for calculating the royalty or licence fee.

All royalties and/or fees emanating from such transactions must be repatriated to South Africa within a period of 30 days from the date of becoming entitled thereto.

The sale, transfer, assignment and/or licensing of intellectual property is subject to appropriate tax treatment.

3.6.3 Funding structure

Individuals may raise loans abroad to finance the acquisition of foreign assets without recourse to South Africa. Only authorised foreign assets may be used as collateral in this instance and under no circumstances may local guarantees or suretyships be issued or may South African assets be encumbered.

Individuals are allowed to participate in offshore share incentive or share option schemes, provided that such participation is financed under the R10 million foreign capital allowance and/or the R1 million single discretionary allowance.

Individuals are allowed to take up new shares in foreign companies that have accrued by way of rights on existing holdings of shares, provided that transfers in payment thereof are dealt with in terms of the R10 million foreign capital allowance and/or the R1 million single discretionary allowance.

3.6.4 Income earned abroad and foreign capital introduced

Income earned abroad on or after 1997-07-01 may be retained abroad. It should be noted that income earned abroad and own foreign capital introduced (excluding export proceeds, sale proceeds from the sale of South African assets and capital repatriated on which the 5 per cent levy has been paid in terms of the Exchange Control Amnesty and Amendment of Taxation Laws Act, 2003 (Act No. 12 of 2003) into South Africa from the above-mentioned date by individuals resident in South Africa, may be re-transferred abroad (excluding any growth on the funds introduced). Documentary evidence confirming that the income and/or capital had previously been converted to Rand must be furnished to the Authorised Dealer concerned and only the Rand equivalent of any amount repatriated is eligible for re-transfer abroad.

In cases where income is earned abroad as a result of services rendered by individuals normally resident in South Africa, such individuals should be physically abroad whilst rendering these services, in order to qualify for the aforementioned dispensation.

3.7 Import payments

Payments effected under this section require the presentation of documentation and will not be deducted from the single discretionary allowance limit of R1 million per calendar year.

3.7.1 Import payments via credit and/or debit cards

Individuals with locally issued credit and/or debit cards are permitted to make foreign currency payments for small transactions (e.g. imports over the Internet) by means of such credit and/or debit cards. Payments are limited to R50 000 per transaction. Cardholders will, however, not be absolved from ad valorem excise and custom duties or from complying with the requirements imposed by Customs.

Any singular transaction exceeding R50 000 may not be split to circumvent the limit applicable to this dispensation.

3.7.2 Import payments via an Authorised Dealer in foreign exchange

Individuals may purchase foreign currency for payment of imports via an Authorised Dealer.

Where an import permit is required, residents must ensure that a covering import permit issued by ITAC is obtained.

All applications for the importation of gold must be referred to the South African Diamond and Precious Metals Regulator in terms of the Precious Metals Act, 2005 (Act No. 37 of 2005).

Payments for imports must be made against the following documentation:

- (a) commercial invoices issued by the supplier;
- (b) any one of the transport documents as prescribed by the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits (UCP 600) and its supplement for electronic presentation, the eUCP, evidencing transport of the relative goods to South Africa; or

Foreign currency payments for imports into South Africa may be effected on any shipment and/or delivery term where the freight is included in the cost of the goods being imported.

- (c) Freight Forwarders Certificate of Receipt or Freight Forwarders Certificate of Transport; or
- (d) consignee's copy of the prescribed SARS Customs Declaration.

In lieu of the documents referred to in points (b) and (c) above, arrival notifications issued by shipping companies may be tendered.

All documentation must be retained by the resident for a period of at least five years.

Since Botswana is a member of the Custom Union, imports from Botswana may be paid for against the commercial invoice issued by the supplier and the consignee's copy of the prescribed SARS Customs Declaration.

Where goods for which payment has been made from South Africa have not been or will not be consigned to South Africa within four months of the date of payment, the importer must within 14 days of the expiry of such period advise the Authorised Dealer through whom foreign currency was purchased of this fact.

In cases where an importer fails to provide import documentation or to report the non-receipt of goods within the above-mentioned four month period to the Authorised Dealer concerned, such Authorised Dealer may cease providing foreign currency to the importer until the matter has been satisfactorily resolved. Any non-compliance will be reported to the Financial Surveillance Department who may issue an instruction to all Authorised Dealers that no foreign currency may be provided to such importer until the matter has been satisfactorily resolved.

Individuals who wish to hedge their import commitments must approach their Authorised Dealer in this regard.

3.7.3 Philatelic imports and numismatic imports

Residents must approach their Authorised Dealers who may grant foreign currency in payment of import for numismatic (excluding South African gold coins minted in 1962 and thereafter) and philatelic purposes. The Authorised Dealer will furnish applicants with a letter of authority for submission to the appropriate government department.

The government department concerned will endorse, on the face of the letter, the value of each parcel received in South Africa during the relative period. When this authority has been fully used or on the date of its expiry, the relative letter of authority must be returned to the Authorised Dealer concerned before a new letter in respect of any subsequent period is issued.

Matters relating to the importation of medals, medallions, pendants and other similar non-currency articles must be referred to ITAC.

3.8 Miscellaneous commercial payments and receipts

- 3.8.1 Payments effected under this section require the presentation of documentation and will not be deducted from the single discretionary allowance limit of R1 million per calendar year.
- 3.8.2 Miscellaneous commercial payments inclusive of associated costs to non-residents may be effected via an Authorised Dealer in respect of legitimate foreign obligations.
- 3.8.3 The following conditions are also applicable:
 - (a) foreign currency payments may also be made in advance against documentary evidence, e.g. an invoice or agreement;
 - (b) residents may approach their Authorised Dealer to issue guarantees on their behalf in favour of non-residents with the exception of guarantees for capital transactions and currency transfer guarantees, which need to be referred via an Authorised Dealer to the Financial Surveillance Department. Authorised

Dealers may also, where applicable, approve the extension of the aforementioned guarantees;

- (c) residents may not participate in lotteries organised abroad, as such participation contravenes the Lotteries Act, 1997 (Act No. 57 of 1997). Furthermore, in terms of the National Gambling Act, 2004 (Act No. 7 of 2004), as amended by the National Gambling Amendment Act, 2008 (Act No. 10 of 2008), residents may not participate in any gambling activities not authorised in terms of the afore-mentioned Act;
- (d) South African securities may be exported by residents for sale abroad only through an Authorised Dealer and the sale proceeds must be repatriated to South Africa;
- (e) residents may only purchase securities abroad within the R10 million foreign capital allowance, within the single discretionary allowance limit of R1 million per calendar year, or through the use of exempted foreign assets. All other applications for purchases of securities abroad must be referred by the Authorised Dealer to the Financial Surveillance Department; and
- (f) residents must sell to Authorised Dealers within 30 days all foreign bank notes received from non-residents as payment for legitimate transactions, e.g. services rendered, gratuities, tips or gifts.

3.9 Securities control

Residents may not act as a nominee for a non-resident purchasing shares or securities in South Africa, unless permission has been obtained via an Authorised Dealer from the Financial Surveillance Department.

Residents of the CMA who deal in securities may not register an address outside the CMA without obtaining the specific prior written approval of the Financial Surveillance Department, via an Authorised Dealer. The applications to the Financial Surveillance Department must contain full and precise details of the request.

Residents may under no circumstances have local dividends on South African registered shares paid outside the CMA without specific prior written approval from the Financial Surveillance Department.

Individuals can invest without restriction in locally managed investment products that have foreign exposures, such as collective investment schemes and long-term insurance policies.

3.10 Legacies and distributions

3.10.1 Legacies and distributions from resident estates

Cash bequests and the cash proceeds of legacies and distributions from resident estates due to non-resident private individuals, non-resident entities and/or trusts with no direct and/or indirect South African interest, including emigrants, may be remitted abroad, provided that the Liquidation and Distribution Account bearing a

Master of the High Court reference number is available. In cases where the total assets of the resident estate is less than R250 000, cash bequests and the cash proceeds of legacies due to non-resident private individuals, non-resident entities and/or trusts with no direct and/or indirect South African interest, including emigrants, may be remitted abroad, provided that the Last Will and Testament and Letter of Executorship or Authority are available.

In all cases where such an estate holds authorised foreign assets, distribution of the foreign assets may be effected to non-residents, provided that all foreign administrative and related costs have been met from the foreign portion of the estate.

Other assets inherited by non-residents may be exported under cover of the required SARS Customs Declaration provided that such articles are bequeathed to the beneficiaries in terms of the deceased's will or otherwise in terms of the Liquidation and Distribution Account bearing a Master of the High Court reference number.

Capital distributions from local testamentary trusts due to non-residents may be remitted abroad, provided that the trustees resolution confirming the capital distribution and the Last Will and Testament confirming that the beneficiary is entitled to such capital distribution are available.

Distributions as a result of the renunciation of a beneficiary's right to capital of a testamentary trust must be referred via an Authorised Dealer to the Financial Surveillance Department.

3.10.2 Gifts and/or donations from non-residents

Any foreign assets received by a resident from a non-resident as a gift or donation must be declared to an Authorised Dealer and be repatriated to South Africa. Alternatively, a fully motivated application to retain the assets abroad must be submitted via an Authorised Dealer to the Financial Surveillance Department.

3.10.3 Foreign inheritance and legacies from bona fide non-resident estates

Residents are not required to declare to their Authorised Dealer inheritances or legacies from bona fide foreign estates that accrued after 1998-03-17 and may retain the capital and any income generated thereon abroad. The retention of such assets abroad is subject to the conditions that the assets will not be placed at the disposal of other South African residents or used to create 'loop structures'.

Residents are normally not permitted to place their foreign assets at the disposal of third parties normally resident in South Africa without the specific prior written approval of the Financial Surveillance Department (i.e. the sale in Rand or foreign currency of legally held foreign assets and loans to other South African residents or the creation of 'loop structures').

3.10.4 Foreign inheritance and legacies from South African estates with foreign assets

Any foreign assets inherited by a resident from the estate of a deceased South African resident must be declared to the Financial Surveillance Department via an Authorised Dealer. Such foreign assets may, however, be retained abroad provided that the assets were held abroad by the original South African owner thereof in compliance with the provisions of the Regulations (e.g. the foreign capital allowance) and that no 'loop structure' exists. The retention of such assets abroad is subject to the condition that the assets will not be placed at the disposal of other South African residents, or used to create 'loop structures'. Any existing 'loop structure' must be referred to the Financial Surveillance Department via an Authorised Dealer.

Where it is disclosed to the Financial Surveillance Department that the foreign assets inherited were held by the deceased in a manner contrary to the provisions of the Regulations, including 'loop structures', an application for regularisation of such assets must be submitted via an Authorised Dealer to the Financial Surveillance Department.

If approved, the retention of such assets abroad may be subject to the payment of a levy and will be conditional upon the assets not being placed at the disposal of other residents or used to create 'loop structures'.

Foreign assets inherited and which were held abroad by the resident beneficiary not in compliance with the provisions of the Regulations, for example the resident beneficiary created a 'loop structure' after receiving the inheritance from the deceased's estate, must apply for regularisation via an Authorised Dealer to the Financial Surveillance Department.

3.11 Export of goods

3.11.1 Individuals exporting goods must comply with the following conditions:

- (a) complete a SARS Customs Declaration;
- (b) sell goods exported within a reasonable time, but no later than six months from the date of shipment;
- (c) receive the full foreign currency proceeds in South Africa not later than six months from the date of shipment;
- (d) receive payment in foreign currency or Rand from a Rand from a Non-resident Rand account in the name of the non-resident and/or Rand from a vostro account held in the books of the Authorised Dealer;
- (e) offer for sale to an Authorised Dealer the full foreign currency proceeds within 30 days after becoming entitled thereto; and
- (f) report in writing to an Authorised Dealer the non-receipt of the full foreign currency proceeds, within the prescribed period, as well as the failure to sell the goods exported within six months from the date of shipment.

- 3.11.2 All motor vehicles exported for sale abroad must have an export permit issued in terms of the International Trade Administration Act, 2002 (Act No. 71 of 2002).

In respect of the temporary export of motor vehicles to all countries outside the CMA, residents must complete the prescribed SARS Customs Declaration and such vehicle must be returned to South Africa within a period of six months.

- 3.11.3 All temporary exports of items or goods such as personal effects and jewellery to countries outside the CMA, for which no payment is to be received in South Africa, must where required, be supported by the prescribed SARS Customs Declaration. These goods or replacement items must be returned to South Africa within a period of six months.

Should the insurance value of the above-mentioned goods taken by the traveller exceed R200 000, the prior written approval of the Financial Surveillance Department must be obtained.

Requests to export any items or goods, with an insurance value in excess of R50 000, for which no payment will be received and where the items exported will not be returned to South Africa, must be referred to the Financial Surveillance Department.

- 3.11.4 Residents who wish to hedge their exchange rate or currency risk must approach their Authorised Dealer in this regard.

3.12 Residents borrowing abroad

- 3.12.1 Resident individuals must approach their Authorised Dealer to obtain approval to avail of inward foreign loans and foreign trade finance facilities from any non-resident and such loans must be recorded via the Loan Reporting System by the Authorised Dealer concerned.

- 3.12.2 All applications for inward foreign loans and foreign trade finance facilities must, inter alia, contain the following information which must be furnished to the Authorised Dealer:

- (a) full names of the local borrower;
- (b) identity number or temporary resident permit number or registration number of the borrower;
- (c) full names of the foreign lender;
- (d) domicile of the foreign lender;
- (e) relationship between the foreign lender and the borrower;
- (f) denomination of the loan;
- (g) currency and amount of principal sum;

- (h) interest rate and margin;
- (i) purpose of the loan;
- (j) details of the type of security required, if any;
- (k) tenor. In instances where a loan will be repaid at a fixed future date, the date on which the loan will be repaid must be provided and, where a loan will be repaid in instalments, the date of the first instalment should be provided as well as the interval of the instalments, e.g. monthly/quarterly intervals;
- (l) copy of the loan agreement, if available/applicable;
- (m) confirmation that there is no direct/indirect South African interest in the foreign lender;
- (n) full details of early repayment options, as well as currency switch options, if any;
- (o) in the case of foreign trade finance facilities, written confirmation from the borrower to the effect that the relative import or export transaction is not being financed elsewhere; and
- (p) detail of any commitment fees, raising fees and/or any other administration fees payable by the borrower.

3.12.3 The following minimum requirements must be met for the loan to be approved by the Authorised Dealer:

- (a) the tenor of each loan must be at least one month;
- (b) the interest rate in respect of third party foreign denominated loans may not exceed the base lending rate plus 3 per cent or, in the case of shareholders' loans, the base lending rate as determined by commercial banks in the country of denomination;
- (c) the interest rate in respect of Rand denominated loans may not exceed the base rate, i.e. prime rate, plus 5 per cent on third party loans or the base rate, in the case of shareholders' loans;
- (d) the fixed interest rate linked to the base rate, if applicable, may not exceed the interest rate mentioned in (bb) or (cc) above. In this regard, approved inward foreign loans should always be adjusted accordingly in line with the set criteria;
- (e) the loan funds to be introduced may not represent or be sourced from a South African resident's foreign capital allowance, foreign earnings retained abroad, funds for which amnesty had been granted in terms of the Exchange Control Amnesty and Amendment of Taxation Laws Act, 2003 (Act No. 12 of 2003), funds regularised under the Exchange Control Voluntary Disclosure Programme and/or foreign inheritances;

- (f) there may not be any direct/indirect South African interest whatsoever in the foreign lender;
- (g) the loan funds may not be invested in foreign sinking funds;
- (h) no upfront payment of commitment fees, raising fees and/or any other administration fees are payable by the borrower; and
- (i) the above-mentioned fees may be paid from South Africa once the loan funds have been received and converted into Rand locally, provided that such fees do not exceed 5 per cent of the principal sum.

If the above-mentioned requirements cannot be met, a suitable application must be submitted via an Authorised Dealer to the Financial Surveillance Department.

4. Emigrants

- 4.1 Individuals regarded as residents by the Financial Surveillance Department who are leaving South Africa to take up permanent residence in any country outside the CMA may apply to an Authorised Dealer before departure to be accorded the facilities set out below. Applications must be accompanied by a duly completed Form MP336(b) signed by the applicant, together with a printed tax compliance status verification result obtained via the SARS Tax Compliance Status (TCS) system reflecting the compliance status of the applicant(s) including a breakdown of the remaining capital assets held in South Africa.
- 4.2 Family units emigrating to any country outside the CMA will qualify, at the time of emigration and after all their assets have been brought under the administration of an Authorised Dealer, to be accorded the following facilities:
 - (a) a foreign capital allowance of up to R20 million per calendar year after all liabilities including the cost of the relative passenger tickets and the applicable travel allowances in (b) below have been provided for;
 - (b) in addition, a travel allowance applicable to each member of the family unit on the basis and subject to the prescribed limits; and
 - (c) a widow or widower or a single parent with accompanying dependant(s) may also be regarded as a family unit.
- 4.3 Single persons may be accorded a foreign capital allowance of up to R10 million per calendar year after all liabilities including the cost of the relative passenger ticket and the applicable travel allowance, have been provided for.
- 4.4 Quoted and/or unquoted securities may be exported as part of or in lieu of the applicable foreign capital allowance based on the market value thereof at the time of availing of the applicable allowance. The relevant securities must, of course, be endorsed 'non-resident' by the Authorised Dealer concerned.
- 4.5 Donations or gifts in excess of R100 000 received within three years or capital

distributions from inter vivos trusts within three years, prior to the date of emigration, will be deducted by your Authorised Dealer prior to according the remaining foreign capital allowance.

- 4.6 Provided that the prescribed SARS Customs Declaration is completed any household and personal effects, motor vehicles, caravans, trailers, motorcycles, stamps, coins and minted gold bars (excluding coins that are legal tender in South Africa) per family unit or single person, within the overall insured value of R2 million, may be exported.
- 4.7 Emigrants may transfer the proceeds of claims lodged by them for the loss of or damage to household and personal effects, motor vehicles, caravans, trailers, motorcycles, stamps and coins (excluding coins that are legal tender in South Africa).
- 4.8 Persons who have already emigrated but who have not fully utilised the current authorised foreign capital allowance may be accorded additional capital transfers provided that the total amount availed of does not exceed the current limits.
- 4.9 South African insurance companies may be requested to transfer life policies (excluding single-premium policies) from a register in South Africa to a register in any country outside the CMA, provided that:
- (a) they are satisfied that the insured has formally emigrated and has placed their emigration on record with the Authorised Dealer;
 - (b) in total the surrender values of the policies do not exceed R2 000 in respect of any one family unit; and
 - (c) the relative transfer will not result in the beneficiaries receiving, on aggregate, assets with a value exceeding that of the applicable foreign capital allowance.
- 4.10 Upon receipt of confirmation of the emigrants' departure from South Africa they will be redesignated as resident in their new country, but the following procedures will apply in respect of assets held at the time of redesignation:
- (a) any cash balances remaining after the appropriate facilities have been granted and all capital payments accruing thereafter to the emigrant, as well as the total proceeds of any asset subsequently sold, will require to be credited to an emigrant's capital account, i.e. current, savings or interest bearing deposit account with an Authorised Dealer. Such funds may be utilised locally for any purpose, including locally managed investment products that have foreign exposures, such as collective investment schemes and long-term insurance policies, subject to the following:
 - (aa) where such funds are utilised for investment purposes, e.g. investment in unit certificates issued by companies registered under the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002), Authorised Dealers must at all times be able to demonstrate that such investments are being held to their order;
 - (bb) the proceeds of mortgage bonds and/or mortgage bond participations forming part of the emigrants' remaining assets, may be reinvested in

- (cc) further bonds and/or participations; and all quoted and/or unquoted securities owned by the emigrants at the time of their departure or accruing to them thereafter, must also be deposited with an Authorised Dealer and may be released for switching purposes, without the specific authority of the Financial Surveillance Department. Unquoted securities, however, may only be switched into quoted securities; emigrants may not record a non-resident address in respect of any securities that form part of their remaining assets on emigration and such securities must be restrictively endorsed;
- (b) any other South African assets belonging to the emigrants at the time of their departure or accruing to them thereafter must be brought under the administration of an Authorised Dealer. The Financial Surveillance Department will, on application via an Authorised Dealer, consider requests to transfer the emigrants' remaining liquid assets or the export of quoted and/or unquoted securities in lieu of cash, exceeding the foreign capital allowance limit of R20 million per family unit or R10 million per single person. Emigrants wishing to avail of the aforementioned dispensation must obtain a TCS PIN verifying the taxpayer's tax compliance status which must accompany their application to the Financial Surveillance Department, for consideration; and
- (c) the proceeds from insurance policies may be transferred directly to the emigrant abroad where the emigrant has no bank account in South Africa, provided that the foreign capital allowance limit will not be exceeded.

4.11 Income due to emigrants defined hereunder is normally transferrable and all applications for the transfer of any other form of income must be referred to the Financial Surveillance Department via an Authorised Dealer:

- (a) interest and profit;
- (b) dividends: the declaration of a dividend in specie or a special dividend for any purpose requires the prior written approval of the Financial Surveillance Department;
- (c) income distributions from close corporations;
- (d) directors' fees or members' fees;
- (e) pension payments paid by registered funds only;
- (f) cash bonuses on insurance policies;
- (g) income received from a trust created in terms of a last will and testament;
- (h) income received from an inter vivos trust (subject to the provisions outlined in subsection 4.17 hereunder);
- (i) rentals on fixed property including rental pool agreements, provided that rentals

are substantiated by the production of a copy of the rental or rental pool agreement;

- (j) the difference between the purchase consideration and maturity value of quoted gilts;
- (k) annuity payments where the annuity has been in existence for a period of five years prior to the date of emigration;
- (l) annuity payments where the annuity has been funded from a pension pay out from a previous employer; and
- (m) refunds in respect of income tax paid by emigrants on income earned subsequent to the date of emigration.

4.12 Only the Authorised Dealer holding the emigrant's remaining assets may allow the transfer of income earned in South Africa from the date of designation as an emigrant, provided that it can be established from the production of documentary evidence that:

- (a) the funds represent earned income from normal trading activities and do not include any element of a capital nature, e.g. the sale proceeds of assets or the revaluation of assets;
- (b) the funds do not represent future income;
- (c) where applicable the assets from which the income accrues are the sole property of the emigrant;
- (d) no third party has any interest therein; and
- (e) the emigrant has taken up permanent residence abroad.

4.13 Dividends, profit or income distributions received from non-quoted entities (excluding trusts) must be supported by an auditor's report and representation letter. The format is specified in the Authorised Dealer Manual. Dividend distributions from quoted entities in favour of emigrant beneficiaries are transferable.

4.14 Requests for the transfer of income to the emigrant beneficiaries of a trust created in terms of a Last Will and Testament must be supported by an auditor's report (Form MP1331 or Form MP1332) and representation letter (Form MP1330(a)). The wording and format may be accessed from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance>Authorised Dealers>Auditor's report and Representation letter.

4.15 As an exception, however, where the total net income earned by a will trust does not exceed R500 000 per annum, it is not necessary to submit a Form MP1331 or a Form MP1332 in support of requests for the transfer of income abroad. In this regard a Form MP1330(a) must be submitted to an Authorised Dealer.

4.16 In the case of interim transfers of income from will trusts to emigrant beneficiaries,

an interim representation letter must be submitted. The wording and format may be accessed from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance>Authorised Dealers>Auditor's report and Representation letter.

- 4.17 All initial requests for the transfer of income derived from an inter vivos trust to emigrant beneficiaries are subject to certain conditions and must be referred to the Financial Surveillance Department via an Authorised Dealer.
- 4.18 Emigrants may be granted local financial assistance facilities in respect of bona fide foreign direct investment into South Africa without restrictions. However, where the funds are required for financial transactions and/or the acquisition of residential or commercial property in South Africa, a 1:1 borrowing ratio applies, i.e. for every R1 in cash or assets that a non-resident introduces or owns, such non-resident may borrow an equivalent amount in the local market. Financial transactions, inter alia, include the purchase and sale of any securities (listed or unlisted), hedging, securities lending, repurchase agreements and any derivative transactions on securities. If facilities are granted for the acquisition of fixed property, such facilities may not be increased at any stage based on a revaluation of the property in question. Local financial assistance granted to emigrants that utilise their remaining local Rand balances or Rand assets as collateral must comply with the 1:1 ratio irrespective of the nature of the transaction.
- 4.19 Emigrants who have been permanently resident outside the CMA for a period in excess of five years will on completion of the necessary immigration declaration and undertaking via an Authorised Dealer, be regarded as new immigrants to South Africa by the Financial Surveillance Department.

5. Foreign nationals

- 5.1 On taking up temporary residence in South Africa, foreign nationals (except those who are purely in South Africa on a temporary visit) are required, on arrival, to declare in writing to an Authorised Dealer:
 - (a) whether they are in possession of foreign assets and, if so, give an undertaking to the effect that they will not place such foreign assets at the disposal of a third party normally resident in South Africa; and
 - (b) that they have not applied for similar facilities through another Authorised Dealer.
- 5.2 On receipt of such completed declarations and undertakings, foreign nationals may:
 - (a) conduct their banking on a resident basis;
 - (b) dispose of or otherwise invest their foreign assets, including foreign cash funds held by them, subsequent accruals, as well as foreign income, without interference from the Financial Surveillance Department;
 - (c) conduct Non-resident Rand accounts or foreign currency accounts in the books of an Authorised Dealer; and

- (aa) transfer abroad funds accumulated during their stay in South Africa provided that:the source from which they have acquired such funds can be substantiated; and
 - (bb) the value of such funds is reasonable in relation to their income generating activities in South Africa during the period.
 - (d) retransfer abroad capital which has been introduced into South Africa, provided the individual can substantiate the original introduction of such funds.
 - (e) retransfer abroad household and personal effects, including motor vehicles, provided that the items have been purchased with funds which would have been transferable and/or the items have been imported into South Africa. The individual must be able to substantiate the importation of any goods by presenting documentary evidence to an Authorised Dealer. These effects may be transferred abroad under cover of the required SARS Customs Declaration.
- 5.3 The above provision excludes single transactions up to an amount of R3 000 per transaction per day within a limit of R10 000 per applicant per calendar month.
- 5.4 While the personal banking of foreign nationals temporarily resident in South Africa may be conducted on a resident basis, any interest held by such individuals in local entities (i.e. legal persons) will be deemed as non-resident for the purposes of local financial assistance.
- 5.5 On presentation of documentary evidence to an Authorised Dealer, foreign nationals may also transfer lump-sum commutations and monthly pensions abroad.
- 5.6 In the case of mine labourers who are returning or who have already returned permanently to countries outside the CMA, Authorised Dealers may approve the transfer abroad of lump sum commutations as well as monthly pensions. Migrant labourers are also permitted, in terms of existing arrangements with Customs to take with them reasonable amounts in the form of Rand notes representing their earnings in South Africa.
- 5.7 Bonuses and surplus pension distributions may be transferred abroad provided that documentary evidence is presented to the Authorised Dealer confirming same prior to any transfer.

6. Immigrants

- 6.1 On taking up permanent residence in South Africa:
- (a) immigrants are required, on arrival in South Africa to declare to an Authorised Dealer, whether they are in possession of foreign assets and, if so, give an undertaking that they will not place such foreign assets at the disposal of a third party normally resident in South Africa; and
 - (b) immigrants must provide their Authorised Dealer with documentary evidence substantiating that they have been granted permanent residence in South

Africa. They will then be regarded as immigrants with effect from the date of their arrival in South Africa.

- 6.2 Persons who have applied for, but who have not been granted permanent residence in South Africa, may avail of a single discretionary allowance of R1 million per calendar year. The funds tendered in payment must represent either savings from local earnings or the proceeds of foreign currency introduced to and exchanged in South Africa.
- 6.3 Immigrants may be permitted to:
- (a) dispose of or otherwise invest their foreign assets, including foreign cash funds held by them, subsequent accruals and foreign earned income, without interference from the Financial Surveillance Department, provided the necessary declaration and undertaking were completed as outlined in 6.1(a) above.
 - (b) within five years of the date of their immigration, retransfer or re-export all own assets introduced or imported during the five year period (including growth), provided that:
 - (aa) the necessary declarations and undertakings were completed on their arrival in South Africa as outlined in 6.1(a) above; and
 - (bb) they can substantiate the original introduction or importation of such assets.
 - (c) within five years of the date of their immigration, transfer abroad their South African assets in excess of those referred to in 6.3 (b) above, provided that:
 - (aa) the Authorised Dealer concerned is satisfied that the individuals will be leaving South Africa permanently;
 - (bb) the Authorised Dealer is satisfied that the assets to be transferred are reasonable in relation to the growth resulting from such individual's business or employment activities and/or is market related; and
 - (cc) such transfers are not financed from local financial assistance facilities.
 - (d) after five years of the date of their immigration, immigrants leaving South Africa permanently will be regarded on departure as emigrants from South Africa and will qualify for the prescribed emigration facilities.
 - (e) in addition to the facilities that emigrants qualify for as outlined in (d) above, Authorised Dealers will permit immigrants to retransfer or re-export the Rand equivalent of funds introduced or own assets imported (including growth), provided that:
 - (aa) the necessary declarations and undertakings were completed on the arrival in South Africa; and

- (bb) they can substantiate the original introduction or importation of such assets.
- (f) any household and personal effects, including motor vehicles, may be exported under cover of the prescribed SARS Customs Declaration provided that the goods to be exported have been purchased with funds that would have been transferable and/or have been imported into South Africa. The individual must, in need, be able to substantiate the importation thereof by the production of documentary evidence.

6.4 Payments by immigrants:

- (a) Immigrants may approach their Authorised Dealer for the provision of foreign currency to cover current and arrear premiums due on foreign currency life insurance policies or contributions to pension and medical aid funds, provided that:
 - (aa) the necessary declarations and undertakings were completed; and
 - (bb) documentary evidence is presented, verifying the amounts due and that the commitment was entered into before the applicants took up residence in South Africa.
- (b) Immigrants may, against the presentation to an Authorised Dealer of documentary evidence confirming the amount involved, repay loans received in their previous country of domicile.
- (c) Immigrants may settle foreign tax commitments from South Africa against the production of documentary evidence confirming the amount involved.

7. The cross-border foreign exchange transaction reporting requirements

Individuals must note that the reporting of all cross-border foreign exchange transactions by an Authorised Dealer and/or ADLA to the Financial Surveillance Department is compulsory. Accordingly, individuals must provide full details pertaining to the relevant cross-border transaction as requested by the Authorised Dealer and/or ADLA concerned.

The objective of the Reporting System is to ensure accurate and comprehensive reporting of all data by Authorised Dealers and ADLAs on transactions, irrespective of the amount, for compilation of:

- (a) balance-of-payments statistics by the Research Department of the South African Reserve Bank;
- (b) foreign debt statistics and repayment profiles to support monetary policy decisions; and
- (c) statistical information relating to the nature, volume and values of the various cross-border flows and provide the appropriate information for economic and financial management decisions, as well as planning and policy formulation.

7.1 Integrated form

Individuals must complete an integrated form in respect of all cross-border foreign exchange transactions at an Authorised Dealer and/or ADLA.

When the individual is physically present at the Authorised Dealer/ADLA, the integrated form must be completed and signed by the individual in respect of all inward and outward payments.

When the individual is not physically present to complete and sign the integrated form, the Authorised Dealer/ADLA may complete and sign the integrated form, either physically or electronically, provided that the Authorised Dealer/ADLA has been authorised or mandated to do so by means of a letter, a facsimile message, an email message or by a recorded telephonic message to act on the individual's behalf.

As an exception to the arrangement outlined in the preceding paragraph, an integrated form need not be completed by the client of an Authorised Dealer in respect of inward payments under R50 000 per transaction. In this regard, individuals are advised to liaise with their Authorised Dealer regarding the conditions applicable to this dispensation.

7.2 Declaration

The following declaration is included in the integrated form to be signed by the individual:

"I, the undersigned....., hereby declare that:

1. I have read this document and know and understand the contents thereof;
2. the information furnished above is in all respects both true and correct;
3. the currency applied for will only be used for the specific purpose stated herein;
4. the documentation presented in support of this application is in all respects authentic; and
5. I have been informed of the limit applicable to the above transaction and confirm that this limit will not be exceeded as a result of the conclusion of this transaction.
6. I consent to this information being provided to the South African Revenue Service and/or the Financial Intelligence Centre."

8. Transactions with Common Monetary Area residents

8.1 Introduction

There are no foreign exchange restrictions between banks of the CMA

member countries in respect of cross-border transactions amongst themselves. Lesotho, Namibia and eSwatini have their own monetary authorities and legislation. The application of exchange control within the CMA is governed by the Multilateral Monetary Agreement. Investments and transfers of funds in Rand from/to South Africa to/from other CMA countries do not require the approval of the Financial Surveillance Department.

CMA country currencies comprise of the following: South African Rand, Lesotho Maloti, eSwatini Emalangenani and Namibian Dollar.

8.2 General

Individuals from other CMA countries should note that South African Authorised Dealers are not permitted to enter into foreign exchange transactions (i.e. in foreign currency other than CMA country currencies) with residents of other CMA countries. If such requests are received, residents of other CMA countries will be referred back to their bankers in the CMA country concerned.

8.3 Travel

As an exception to subsection 8.2 above, foreign currency may be purchased by diplomats, accredited foreign diplomatic staff as well as students with a valid student card from other CMA member countries while in South Africa.

Authorised Dealers and/or ADLAs may also sell foreign currency to CMA residents in South Africa, to cover unforeseen incidental costs whilst in transit, subject to viewing a passenger ticket confirming a destination outside the CMA.

CMA residents who travel overland to and from Namibia through Botswana qualify to be accorded the Botswana Pula equivalent of an amount not exceeding R25 000 per calendar year. This allocation does not form part of the single discretionary allowance limit of R1 million per calendar year for South African residents.

8.4 Export of motor vehicles

Motor vehicles principally designed for the transport of persons and goods, but excluding vehicles exported by diplomatic and foreign representatives and new vehicles exported by local manufacturers or their appointed agents, may not be exported for sale outside the South African Customs Union, i.e. Botswana, Lesotho, Namibia and eSwatini except by virtue of an export permit issued in terms of the International Trade Administration Act, 2002 (Act No. 71 of 2002).

---oOo---