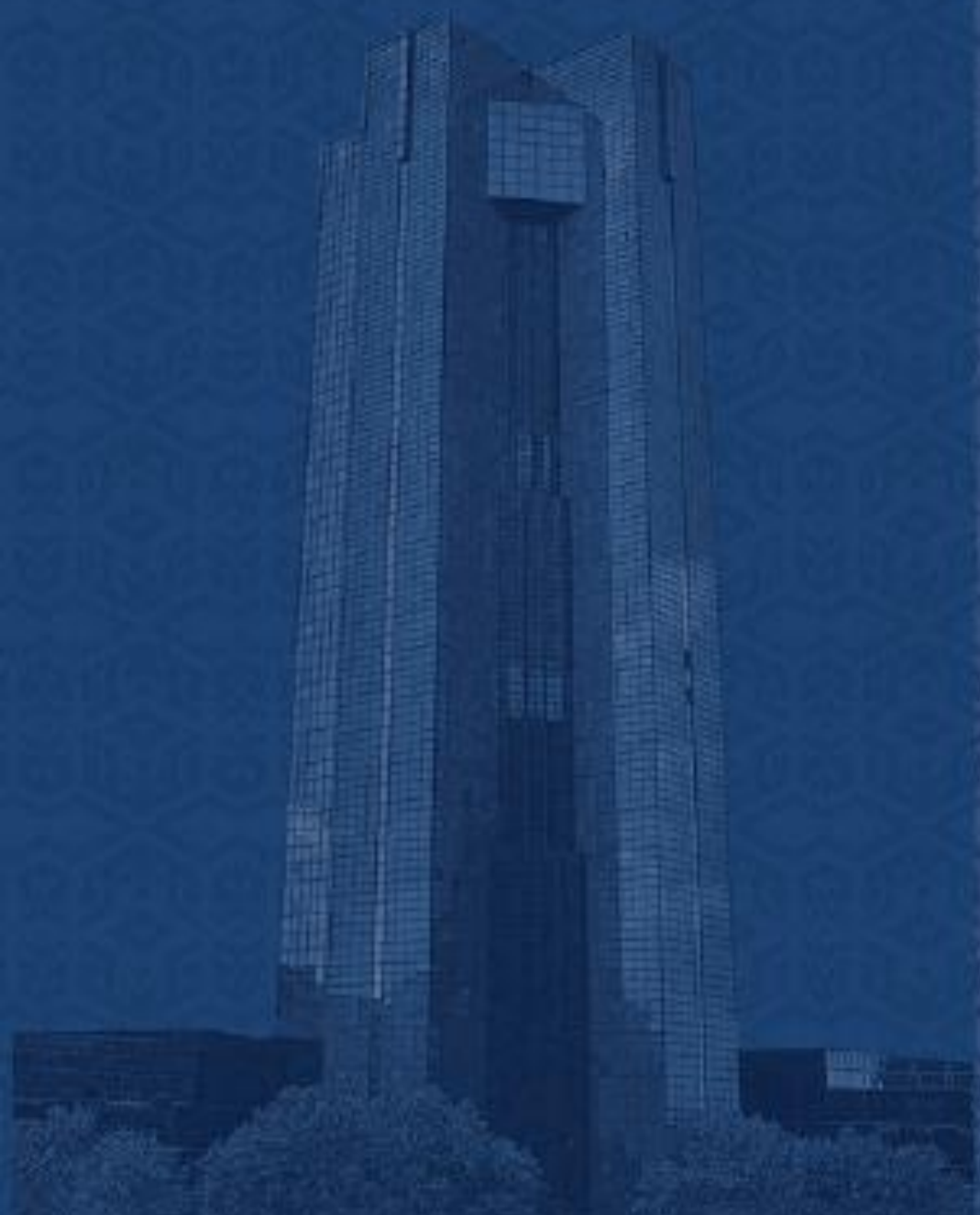
Currency and Exchanges Manual for Authorised Dealers

2021-01-04



South African Reserve Bank

South African Reserve Bank

Financial Surveillance Department

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Legal context

Although the Republic of South Africa (South Africa) has had exchange controls since 1939, the foundation thereof is the Currency and Exchanges Act, 1933 (Act No. 9 of 1933) (the Act) and the Exchange Control Regulations (Regulations) promulgated thereunder in terms of section 9(1) of the Act, on 1961-12-01. In terms of these Regulations, the control over South Africa's foreign currency reserves, including accruals thereto and spending thereof is vested in the Treasury, who is authorised to grant permissions or exemptions for certain transactions, subject to certain conditions. Although these permissions or exemptions which were previously referred to as 'Rulings' have no statutory force, they have the effect of law. 'Treasury', is however defined to mean, in relation to any matter contemplated in the Regulations, the Minister of Finance or an officer in the Department of Finance (now the National Treasury) who, by virtue of the division of work in that Department, deals with the matter on the authority of the Minister of Finance.

The Minister of Finance has in terms of Regulation 22E delegated to the Governor, a Deputy Governor, the Head of the Financial Surveillance Department as well as other officials in the Financial Surveillance Department, the powers, functions and duties assigned to and imposed on the Treasury under the Regulations. The Financial Surveillance Department of the South African Reserve Bank (Financial Surveillance Department) is therefore responsible for the day to day administration of exchange controls in South Africa.

Section 9(5)(a) of the Act provides for the issuing of Orders and Rules, the current set of which was also promulgated on 1961-12-01. The Orders and Rules contain various orders, rules, exemptions, forms and procedural arrangements.

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Introduction

In terms of Regulation 2(2), an Authorised Dealer shall not buy, borrow, receive, sell, lend or deliver any foreign currency or gold except for such purposes or on such conditions as the Treasury, as defined, may determine, subject to the delegation referred to above.

This Currency and Exchanges Manual for Authorised Dealers (Authorised Dealer Manual) contains the permissions and conditions applicable to transactions in foreign exchange that may be undertaken by Authorised Dealers and/or on behalf of their clients in terms of Regulation 2(2), details of related administrative responsibilities as well as the FinSurv Reporting requirements. This Authorised Dealer Manual must be read in conjunction with the Regulations and Authorised Dealers may transact without reference to the Financial Surveillance Department, provided such transactions are permitted in terms of this Authorised Dealer Manual.

The arrangements set out in the Authorised Dealer Manual should in no manner be construed as absolving Authorised Dealers, their clients and associated entities 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 views contraventions of the Exchange Control Regulations, as well as any actions to circumvent the permissions and conditions contained in the Authorised Dealer Manual, in a very serious light.

The Financial Surveillance Department reserves the right to amend, grant or impose additional permissions or conditions, with new or amended permissions or conditions which will be communicated by the Financial Surveillance Department on its website.

In instances where an Authorised Dealer is not in a position to buy, borrow, sell or lend foreign currency in terms of the permissions and conditions set out in the Authorised Dealer Manual, an official application with full details applicable to the request must be submitted to the Financial Surveillance Department.

For the benefit of the general public, Currency and Exchanges guidelines for business entities and Currency and Exchanges guidelines for individuals have been published by the Financial Surveillance Department. These guidelines set out, in less technical terms, the permissions and conditions relating to cross-border foreign transactions.

The Authorised Dealer Manual, ADLA Manual, Currency and Exchanges guidelines for business entities, Currency and Exchanges guidelines for individuals and applicable amendments thereto are available on the South African Reserve Bank's website: www.resbank.co.za.

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A.1 Definitions

In the Currency and Exchanges Manual for Authorised Dealers, 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 issued to ADLAs by the Financial Surveillance Department 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.

Affected person means a body corporate, foundation, trust or partnership operating in South Africa, or an estate, in respect of which:

(i) 75 per cent or more of the capital, assets or earnings thereof may be utilised for payment to, or to the benefit in any manner of, any person who is not resident in South Africa; or

(ii) 75 per cent or more of the voting securities, voting power, power of control, capital, assets or earnings thereof, are directly or indirectly vested in, or controlled by or on behalf of, any person who is not resident in South Africa.

Africa means any country forming part of the African Union.

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

Business and Technical Specifications document means the document containing all the rules and technical specifications pertaining to the electronic reporting of cross-border foreign exchange transactions.

Capital goods mean tangible items (property, plant and equipment) that:

(i) are held for use in the production or supply of goods and services, for rental to others or for administrative purposes; and

(ii) are expected to be used during more than one period.

CFC account means a Customer Foreign Currency account conducted by residents in the nostro administration of an Authorised Dealer, in terms of the provisions of the Authorised Dealer Manual or in terms of a specific authority granted by the Financial Surveillance Department. Such accounts are held onshore and represent a local asset denominated in foreign currency.

Circulars mean circulars issued by the Financial Surveillance Department to Authorised Dealers, ADLAs and other role players, setting out the conditions, permissions and limits applicable to foreign exchange transactions that may be undertaken by Authorised Dealers, ADLAs and/or on behalf of their clients, as well as amendments to related administrative responsibilities.

CISCA means the Collective Investment Schemes Control Act, 2002 (Act No. 45 of 2002).

CIS Manager means a manager registered under CISCA to administer collective investment schemes.

CIV means client identification and verification in terms of section 21 of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).

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.

Documentary evidence means the documents specified in the Authorised Dealer Manual which are required when doing foreign exchange transactions.

DTMC means a South African holding company for African and offshore operations, which is incorporated or deemed to be incorporated in South Africa and that has its place of effective management in South Africa.

Emigrant means a South African resident who is leaving or has left South Africa to take up permanent residence or has been granted 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.

FAIS Act means Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002).

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 Markets Act means Financial Markets Act, 2012 (Act No. 19 of 2012).

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, travellers' cheque or any other instrument of foreign exchange.

Foreign currency account means a foreign currency account conducted by residents (natural persons only) 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 direct investment 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.

Foreign portfolio investment is the category of international investment that covers investment in equity and debt securities, excluding any such instruments that are classified as direct investment or reserve assets. Foreign portfolio investment reflects investment in which the investor owns less than 10 per cent of the voting rights in the foreign target entity.

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 emigrated from countries outside the CMA with the firm intention of taking up or having taken up permanent residence in South Africa.

Import verification system means the electronic system to verify and authenticate SARS Customs Declaration forms related to imports.

Insurance Act means Insurance Act, 2017 (Act No. 18 of 2017).

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 and 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).

Loan Reporting System means the electronic system used by Authorised Dealers to report authorised new inward foreign loans and foreign trade finance facilities to the Financial Surveillance Department.

MRN means the Movement Reference Number issued by Customs.

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 area means all countries other than those included in 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).

Pension Funds Act means Pension Funds Act, 1956 (Act No. 24 of 1956).

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.

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

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.

Resident means any person (i.e. a natural person or legal entity) who has taken up permanent residence, is domiciled or registered in South Africa. For the purpose of the Authorised Dealer Manual, this excludes any approved offshore investments held by South African residents outside the CMA. However, such entities are still subject to exchange control rules and the Regulations.

Resident account means the account of a person resident, domiciled or registered in South Africa, including that of a CMA resident.

Resident temporarily abroad means any resident who has departed from South Africa to any country outside the CMA with no intention of taking up residence or who has not been granted permanent residence in another country, excluding those residents who are abroad on holiday or business travel.

Restricted Authorised Dealers 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:

(i) **SARS Customs Declaration form**, which is the form used by Customs to verify importer's or exporter's self-assessment of goods declared for one or

other 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;

(ii) **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 Customs Declaration form is completed; and

(iii) **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.

South African exchange means a licensed exchange under section 9 of the Financial Markets Act, 2012 (Act No. 19 of 2012).

The Act means the Currency and Exchanges Act, 1933 (Act No. 9 of 1933).

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.

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A.2 Authorised entities

(A) Authorised Dealers

The offices in South Africa of the under-mentioned banks are authorised to act, for the purposes of the 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 Dealers

The office in South Africa of the under-mentioned bank is authorised to act, for the purposes of the Regulations, as a Restricted Authorised Dealers 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 Dealers
African Bank Limited – Sections B.4(B) and B.16
Bank Zero Mutual Bank (BZMB) – Sections .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

(B) Authorised Dealers in foreign exchange with limited authority

The offices in South Africa of the under-mentioned entities are authorised to act, for the purposes of the Regulations, as ADLAs:

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
Access Forex (Pty) Limited	Three (MTO)
Cassava Fintech (Pty) Limited	Three (MTO)
Kawena Exchange (Pty) Limited	Three (VTSP)
Shoprite Money Transfers (Pty) Limited	Three (MTO)

Name of entity – ADLA	Category of appointment
Terra Payment Services South Africa (RF) (Pty) Limited	Three (MTO)
WorldRemit South Africa (Pty) Limited	Three (MTO)
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

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A.3 Duties and responsibilities of Authorised Dealers

(A) Introduction

(i) Authorised Dealers should note that when approving requests in terms of the Authorised Dealer Manual, they are in terms of the Regulations, not allowed to grant permission to clients and must refrain from using wording that approval/permission is granted in correspondence with their clients. Instead reference should be made to the specific section of the Authorised Dealer Manual in terms of which the client is permitted to transact.

(ii) In carrying out the important duties entrusted to them, Authorised Dealers should appreciate that uniformity of policy is essential, and that to ensure this it is necessary for the Regulations, Authorised Dealer Manual and circulars to be applied strictly and impartially by all concerned.

(iii) Any deviation from or non-compliance with the directives contained in the aforementioned documents is regarded in a serious light and Authorised Dealers are urged to adhere strictly to the directives issued.

(iv) In the interest of all parties concerned, it is emphasised that action may be taken in the event of transgressions of the Regulations and non-compliance with the Authorised Dealer Manual, circulars and other directives and authorities. The circulars, other directives and authorities need to be emphasised and adhered to by both the Authorised Dealer and its clients.

(v) The provisions of Regulation 2(1), expressly prohibit foreign exchange transactions other than through an Authorised Dealer.

(vi) Authorised Dealers must ensure that foreign currency is made available for legitimate purposes only and must call for the production of documentary evidence where requested in the Authorised Dealer Manual.

(vii) Care must be exercised by Authorised Dealers to ensure that no payments to third parties abroad are effected. Transactions of this nature must be referred to the Financial Surveillance Department for prior written approval.

(B) Procedures to be followed by Authorised Dealers in administering the Exchange Control Regulations

(i) In cases where an Authorised Dealer is uncertain and/or cannot approve the purchase or sale of foreign currency or any other transaction in terms of the authorities set out in the Authorised Dealer Manual, an application should be submitted to the Financial

Surveillance Department via the head office of the Authorised Dealer concerned.

(ii) Should an Authorised Dealer have any doubt as to whether or not it may approve an application, such application must likewise be submitted to the Financial Surveillance Department. Authorised Dealers must as a general rule, refrain from their own interpretation of the Authorised Dealer Manual.

(iii) Authorised Dealers are to ensure that when submitting applications to the Financial Surveillance Department, the branch code number is reflected on the top of the application. The branch code number may replace the name of the branch or may be reflected together with the named branch. Branches of Authorised Dealers who do not have a branch code number are requested to obtain an eight digit number from the Financial Surveillance Department.

(iv) An Authorised Dealer shall furnish the Financial Surveillance Department, on a six-monthly basis, with a list of the names and the specimen signatures of officials authorised to sign correspondence addressed to the Financial Surveillance Department as well as the email addresses of at least two senior officials to whom urgent correspondence, if needed, could be referred to.

(v) The Financial Surveillance Department is required to be in possession of full information regarding the transaction, its nature and purpose (clearly specifying the motive and intent), before consulting with the Treasury or exercising the powers, functions and/or duties delegated to it by the Minister of Finance. The application should therefore state whether there are or will be any other direct or indirect underlying, related or connected transactions or arrangements of any nature whatsoever. Any previous application that has any bearing (directly or indirectly) on the current application must be referred to as previous related correspondence.

(vi) When submitting applications for consideration, Authorised Dealers should ensure that the surname and full first names (in the case of an individual) and the correct registered name (in the case of a legal entity or juristic person, e.g. company, partnership or trust) are furnished. Identification numbers for private individuals and registration numbers in respect of legal entities or juristic persons must also be furnished. The same names must be used in subsequent applications, unless specific attention is drawn thereto.

(vii) Authorised Dealers must state whether or not they recommend the application and their reasons for making or withholding their recommendation.

(viii) Authorised Dealers' clients should on no account be advised to apply directly to the Financial Surveillance Department. Neither the Treasury

nor the Financial Surveillance Department is in a position to consider an application without the comments and recommendations of the Authorised Dealer concerned.

(ix) Applications submitted to the Financial Surveillance Department that do not contain sufficient information will be returned to the applicant's banker. Accordingly, to avoid unnecessary delays, Authorised Dealers must ensure that full and precise particulars of the underlying transaction are given in the first instance.

(x) Urgent applications may be submitted through the secure website of the South African Reserve Bank at https://wwwi.resbank.co.za/iforms.nsf. To access this facility, a user-ID and password are required, which can be obtained from the Financial Surveillance Department by sending an email to FNS-HEADTYPIST@resbank.co.za in this regard.

(xi) Replies to applications will be addressed to the head offices of Authorised Dealers, who should ensure that the requirements of the Financial Surveillance Department are fully explained to branches to avoid any misunderstanding on the part of the latter and the applicants concerned.

(xii) Where approval from the Financial Surveillance Department is to be executed (in whole or in part) by an Authorised Dealer other than the one who obtained the approval, the executing Authorised Dealer must first obtain a copy of such approval to ensure that all the terms and conditions laid down have been met. In the case of more than one Authorised Dealer executing a transaction, the onus is jointly on such Authorised Dealers to ensure compliance.

(xiii) Any authority granted by the Financial Surveillance Department should be regarded as cancelled if the applicants concerned do not avail thereof within a period of six months from the date of such authority being granted. This would exclude authorities that were granted for longer periods. The Financial Surveillance Department reserves the right, however, to cancel any authority with immediate effect.

(xiv) It is essential that any transaction must be concluded on the particular basis as formally sanctioned and any deviation from the arrangements originally approved should be referred to the Financial Surveillance Department.

(xv) Authorised Dealers may sell foreign currency only for permissible purposes and on such conditions as the Treasury may determine.

(xvi) It is the responsibility of the Authorised Dealer selling the foreign currency, and not that of the paying away bank, to ensure that the laid-down procedures and requirements are complied with. These duties may not be assigned to another Authorised Dealer. The only exception to this rule relates to forward contracts or foreign currency option contracts not

exceeding 12 months to maturity in section D.1(B) of the Authorised Dealer Manual.

(xvii) Authorised Dealers may extend foreign currency-denominated facilities to South African corporates for the financing of approved foreign direct investments.

(xviii) The attention of Authorised Dealers is also drawn to, inter alia, the provisions of Regulation 10(1)(c). In this regard, it is essential that all transactions (e.g. purchase, sale, exchange, barter), between a resident and a non-resident or emigrant, whereby capital or any right to capital is directly or indirectly exported from South Africa, especially those that have cross-border cash flow implications, are carefully scrutinised and documentary evidence sighted in order to ensure that such transactions are concluded at arm's length and at market related prices. In the case of any doubt on the part of the Authorised Dealer concerned, the proposed transaction is to be referred to the Financial Surveillance Department.

(xix) Clients of Authorised Dealers are not permitted to set off foreign commitments against foreign accruals, whether of a capital or a current nature, unless specifically authorised by the Financial Surveillance Department or as provided for in the Authorised Dealer Manual.

(xx) Attempts have been made to circumvent the Financial Surveillance Department's requirements by applying to more than one Authorised Dealer. To prevent this, the following procedures have been laid down:

(a) Should an Authorised Dealer to whom an application has been made, be in any doubt, such Authorised Dealer should confer with other Authorised Dealers to whom a similar application may have been made.

(b) Where the foreign exchange business of a client is divided, the Authorised Dealers concerned should consult among themselves to ensure that the requirements of the Financial Surveillance Department are being interpreted by each Authorised Dealer in a similar way and that all parties are conducting the business on an identical basis.

(xxi) Transactions passing through clients' accounts must be closely monitored as a possible means of affording information useful to the Financial Surveillance Department or of detecting any contravention of the Regulations which, if revealed, must be promptly reported to the Financial Surveillance Department. In this regard, the attention of Authorised Dealers is directed to the powers conferred on them under the provisions of Regulation 19(1), which entitle them to call for any information and to inspect any books or documents as may be necessary

to ensure compliance with the Regulations. These powers should be fully availed of by Authorised Dealers in carrying out the powers, functions and/or duties assigned to them under the Regulations.

(xxii) Applications submitted to the Financial Surveillance Department must be numbered in a sequential numerical order to ensure that all exchange control applications submitted and replies thereto are duly accounted for. Authorised Dealers must furnish the Financial Surveillance Department on a quarterly basis with a return of missing application sequence numbers covering the preceding quarter containing:

(a) a list of application numbers generated but not submitted to the Financial Surveillance Department;

(b) a nil return in the event of all applications having been submitted in sequential order; and

(c) the range of application numbers generated.

(xxiii) Authorised Dealers must reset their application numbering systems to zero at the beginning of each calendar year.

(C) Documentary evidence required by Authorised Dealers in foreign exchange

(i) As far as documentary evidence, as called for in the various sections of the Authorised Dealer Manual is concerned, Authorised Dealers should endorse such documentation ‘exchange provided’ or alternatively where such documentation is stored digitally and an audit trail exists, no endorsement is required.

(ii) Digital copies of the documents must be retained for a period of five years by Authorised Dealers for inspection purposes. Authorised Dealers should also point out to their clients that original documents must be retained for a period of five years for inspection purposes.

(iii) Whenever documentary evidence is called for in any section of the Authorised Dealer Manual, Authorised Dealers shall be obliged to ensure that such documentary evidence, which shall be obtained and scrutinised in connection with a relevant commercial or other transaction involving the purchase or sale of foreign currency either spot or forward, shall, in terms of accepted trade usage, or established accounting, commercial or legal practice, be the best evidence for purposes of:

(a) identifying and verifying the nature, category or class of the relevant transaction;

(b) proving and verifying the obligation(s) of each resident, who is a party to the relevant transaction, to make payment(s) of foreign currency or to place such foreign currency to the credit of any non-resident, who is a party to the relevant transaction and/or proving and verifying the right(s) of each resident, who is a party to the relevant transaction, to receive payment(s) of foreign currency from or have such foreign currency placed to its credit by any non-resident, who is a party to the relevant transaction; and

(c) proving and verifying the amount(s) and timing of each foreign currency payment or credit referred to in (b) above.

(iv) If the relevant transaction involving foreign currency, as referred to in (iii) above, is recorded in a written agreement to which the relevant resident(s) and non-resident(s) are parties, the term 'documentary evidence', as utilised in the Authorised Dealer Manual and which shall be obtained and scrutinised by Authorised Dealers in connection with foreign exchange transactions, shall, without derogating from the generality of the provisions contained in (iii) above, mean:

(a) the original of such written agreement duly signed by or on behalf of the parties thereto; and

(b) such further supporting or supplementary documents which shall in terms of established accounting, commercial or legal practice be required and generated to give practical effect to the relevant transaction, which supporting or supplementary documents shall include, but not necessarily be limited to relevant confirmatory letters, invoices, receipts, bills of lading or other documents of title, carriage contracts, letters of credit, guarantees, insurance contracts, permits, licences and/or bills of exchange.

(v) Such original written agreement and supporting or supplementary documents, shall as a minimum requirement, identify and prove the various essential elements of the relevant foreign exchange transaction stipulated in (iii) above.

(vi) If the relevant transaction involving foreign exchange is not recorded in a written agreement contemplated in (iv) above, the term 'documentary evidence', as utilised in the Authorised Dealer Manual, and which shall be obtained and scrutinised by Authorised Dealers in connection with foreign exchange transactions, shall, without derogating from the generality of the provisions contained in (iii) above, mean the supporting or supplementary documents of the nature specified in (iv)(b) above, provided that such supporting or supplementary documents shall, as a minimum requirement, identify and prove each of the essential elements of the relevant foreign exchange transaction referred to in (iii) above.

(vii) The directives contained in (iii) to (vi) above, shall not exonerate Authorised Dealers from the duty of obtaining and scrutinising, in connection with any relevant foreign exchange transaction, such documents as may be specified and named in any of the sections of the Authorised Dealer Manual or in any authority granted by the Financial Surveillance Department.

(viii) Where the original set of documents is not available, Authorised Dealers may accept those produced by photocopying, faxing or printed copies of electronic documents.

(D) Reporting requirements for all Authorised Dealers

(i) An Authorised Dealer must comply with the 'same source' principle for the reporting of all cross-border foreign exchange transactions as outlined in detail in section J. of the Authorised Dealer Manual.

(ii) Authorised Dealers are reminded that the reporting of cross-border foreign exchange transactions, as indicated above, does not exempt them in any way from complying with the Authorised Dealer Manual and Regulations.

(E) Transactions with Common Monetary Area residents

(i) The application of exchange control within the CMA is governed by the Multilateral Monetary Agreement.

(ii) Lesotho, Namibia and eSwatini have their own monetary authorities as well as their own legislation.

(iii) CMA country currencies consist of the following: Rand, Lesotho Maloti, eSwatini Emalangeni and Namibian Dollars.

(iv) 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.

(v) There are no foreign exchange restrictions between banks of the CMA countries in respect of cross-border transactions amongst themselves.

(vi) Authorised Dealers may not enter into foreign exchange transactions with residents of other CMA countries. If such requests are received, the clients should be referred back to their bankers in the CMA country concerned, except for (viii) below.

(vii) Any exposure to a CMA country should be included in the calculation of the macro-prudential limit in terms of section B.2(I)(iv) of the Authorised Dealer Manual.

(viii) As an exception to (vi) above, Authorised Dealers may:

(a) sell foreign currency to:

(aa) foreign diplomats, accredited foreign diplomatic staff as well as students with a valid student card from other CMA countries while in South Africa;

(bb) 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;

(cc) CMA residents working and residing in South Africa, provided the CMA resident can substantiate that the value of such funds is reasonable in relation to their income generating activities in South Africa; and

(dd) CMA residents who travel overland to and from other CMA countries through a SADC country up an amount not exceeding R25 000 per calendar year. This allocation does not form part of the permissible travel allowance for residents; and

(b) enter into foreign exchange or hedging transactions with residents of other CMA countries provided that:

(aa) the transaction is in respect of the CMA member's own business;

(bb) an approval letter has been obtained from the relevant authority of the Central Bank or an appropriate mandated body of the CMA country. Such a letter must be viewed by an Authorised Dealer to ensure that the transaction is concluded on the particular basis as formally sanctioned by the relevant CMA authority; and

(cc) information on the nature of transactions and the party with whom such transactions have been entered into is submitted by the Authorised Dealers to the Financial Surveillance Department on a quarterly basis.

(ix) CMA residents may enter into Rand transactions with South African institutional investors. The requirement to obtain an approval letter from the relevant authority of the Central Bank or an appropriate mandated

body of the CMA country is not applicable in respect of the discretionary business of the South African institutional investor.

(F) Financial Surveillance Department forms

The Forms MP336(b), MP1330(a), MP1331, MP1332 and MPI can be accessed from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Publications>Forms> category>Select: Financial surveillance and exchange controls>Year>Select: current year..

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A.4 Guidelines and procedures in respect of treasury outsourcing companies and foreign exchange brokers

(A) General

(i) Treasury outsourcing companies and foreign exchange brokers must conduct their business through an Authorised Dealer.

(ii) Authorised Dealers must ensure that their dealings with treasury outsourcing companies and foreign exchange brokers are strictly in accordance with the provisions of the Regulations, in particular the provisions of Regulation 2(1), which expressly prohibit foreign exchange transactions other than through an Authorised Dealer.

(iii) The guidelines for the conduct and regulating of treasury outsourcing companies and foreign exchange brokers, excluding interbank brokers who are appointed on application, are contained in this section of the Authorised Dealer Manual.

(B) Application procedure

(i) Treasury outsourcing companies and foreign exchange brokers must obtain written approval from the Financial Surveillance Department through an Authorised Dealer prior to commencing any foreign exchange business.

(ii) The treasury outsourcing company and foreign exchange broker application form may be downloaded from the South African Reserve Bank's website: www.resbank.co.za by following the links: Financial Surveillance >General Public>Treasury outsourcing companies and foreign exchange brokers>Application form.

(C) Conditions for conducting the business of a treasury outsourcing company and foreign exchange broker

(i) The following conditions are applicable to the business of a treasury outsourcing company and foreign exchange broker:

(a) the treasury outsourcing company or foreign exchange broker must at all times be in possession of a valid Financial Services Provider license issued by the Financial Sector Conduct Authority;

(b) a letter of compliance, on the official letterhead of the treasury outsourcing company or foreign exchange broker signed by two senior officials, must be submitted to the Financial Surveillance Department on an annual basis, for the period ending 31 December of each year. The letter of compliance must be emailed to SARBToC@resbank.co.za, specifying the wording 'Treasury

Outsourcing Company/Foreign Exchange Broker Letter of Compliance' in the subject field. The format of the letter of compliance can be downloaded from the South African Reserve Bank's website: www.resbank.co.za by following the links: Financial Surveillance >General Public>Treasury outsourcing companies and foreign exchange brokers>Letter of compliance;

(c) the treasury outsourcing company of foreign exchange broker may not buy or sell foreign currency for its own account and may not hold foreign currency or borrow or lend foreign currency;

(d) the treasury outsourcing company or foreign exchange broker may only act in the market as an intermediary (never as a principal) and should accordingly match a principal client with an Authorised Dealer;

(e) prior to such business being conducted the treasury outsourcing company or foreign exchange broker should be properly mandated to act as agents on behalf of their clients;

(f) the services provided by the treasury outsourcing company or foreign exchange broker may include identifying, monitoring and mitigating foreign risks as well as completing and handling of documentation, general administration of client's foreign exchange exposure and concluding spot and/or forward transactions with an Authorised Dealer;

(g) all foreign exchange transactions must be concluded and settled between the Authorised Dealer and the client. The client must at all times be principal to all the foreign exchange transactions and the exchange rate must be determined by the Authorised Dealer;

(h) the settlement of foreign exchange transactions must be accommodated through the bank account of the client and not that of the treasury outsourcing company or foreign exchange broker;

(i) Authorised Dealers must ensure that all cross-border reporting and documentary evidence are at all times completed in the name of the client;

(j) the treasury outsourcing company or foreign exchange broker must at all times when requested to do so be able to demonstrate a complete audit trail, including the actual clients' instructions, for all transactions booked on behalf of clients;

(k) any fees charged for the services provided by the treasury outsourcing company or foreign exchange broker must be invoiced and settled in Rand as well as be fully disclosed to the client;

(l) the requirements of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) must be complied with by the Authorised Dealer and the treasury outsourcing company or foreign exchange broker concerned. In addition, the treasury outsourcing company or foreign exchange broker must comply with the requirements of the Financial Advisory and Intermediary Services Act, 2002 (Act No.37 of 2002);

(m) the Financial Surveillance Department has the right at any stage to carry out an inspection of the treasury outsourcing company's or foreign exchange broker's activities, record keeping, management controls and any other aspects deemed necessary; and

(n) the Financial Surveillance Department may impose any further conditions it may deem necessary.

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B.1 Payment for imports

(A) Import permits

(i) Authorised Dealers must advise importers that they must ensure that a covering import permit issued by ITAC, is available or is not required, prior to processing any import related and/or hedging transaction.

(B) Requisite documentation

(i) Authorised Dealers may only effect foreign currency payments for imports 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

(c) Freight Forwarders Certificate of Receipt or Freight Forwarders Certificate of Transport; and

(d) consignee's copy of the prescribed SARS Customs Declaration.

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

(iii) Imports from Botswana may, however, be paid for against a commercial invoice issued by the supplier and the consignee's copy of the prescribed SARS Customs Declaration.

(C) Payment for imports

(i) Import payments

Foreign currency may be provided to pay for the following:

(a) the actual price of imported goods;

(b) bona fide freight charges;

(c) insurance cover;

(d) buying commissions and retainer fees due to agents, provided that the rate of commission or fee is normal in the particular trade concerned;

(e) other incidental charges incurred in the purchase and shipment of the goods and/or cancellation of orders, but not included in the actual price; and/or

(f) interest payments of up to the applicable base rate plus 3 per cent for credit extended shorter than one year.

(ii) Final settlement for imports

(a) Authorised Dealers may approve requests for final settlement adjustments on imports (e.g. amounts due in respect of weight adjustments, quality allowances) against documentary evidence confirming the purpose and amounts involved.

(D) Terms of payment for imports

(i) Advance payments

(a) Authorised Dealers may provide foreign currency in respect of advance payments to cover the cost of permissible imports, other than capital goods, against the presentation of an invoice.

(b) Authorised Dealers must, in respect of payments in excess of R50 000, subsequently view a copy of the prescribed SARS Customs Declaration bearing the MRN, to ensure that the foreign currency provided had been utilised for the purpose stated and that the goods have been imported into South Africa.

(c) All foreign exchange transactions involving advance payments for imports are subject to the condition that the Authorised Dealer making the advance payment has procedures in place to follow up and report non-compliance to the Financial Surveillance Department.

(d) Authorised Dealers must also inform importers of their obligations in terms of Regulation 12.

(ii) Capital goods

(a) Foreign currency may be provided for advance payments up to 100 per cent of the ex-factory cost of capital goods to be imported not exceeding a total value of R10 million.

(b) Payment for the importation of capital goods in excess of R10 million may only be provided up to 50 per cent of the ex-factory cost of the goods to be imported. Clients must confirm to their Authorised Dealer that the order would otherwise be refused and that such payment is normal in the trade concerned.

(iii) Cash-on-delivery consignments

(a) Authorised Dealers may provide foreign currency to meet import payments relating to goods that have been consigned by air on a cash-on-delivery basis against submission of a copy of the relevant transport document dated and signed by a member of the South African Association of Freight Forwarders.

(b) Authorised Dealers must satisfy themselves, by viewing the commercial invoice and the prescribed SARS Customs Declaration within 14 days thereafter, that the foreign currency provided has been used for the purpose stated and that the goods have been imported into South Africa.

(iv) Extended credit terms

(a) The establishment of documentary credits, stand-by letters of credit, arranging to guarantee payments (e.g. by aval) or open account payments in connection with the importation of goods into South Africa, where the credit terms extended to the local importer exceed 12 months, requires the prior written approval of the Financial Surveillance Department. Such extended credit terms would normally relate to the importation of capital goods. Also see section I.3(C) of the Authorised Dealer Manual.

(v) Payments older than 12 months

(a) Payments in respect of imports where the required import documents are older than 12 months may be effected, provided that no interest has been charged by the foreign supplier.

(vi) Cross-border foreign exchange reporting categories

(a) Payments for imports against an invoice only should be reported under the advance payment category 101-01 to 101-11.

(b) Payment for imports against an invoice and transport documents should also be reported under the advance payment category 101-01 to 101-11.

(c) Advance payments for clients availing of the imports undertaking dispensation must be reported under category 102-01 to 102-11.

(d) Payments for imports where the goods have already been released by Customs and the prescribed SARS Customs Declaration bearing the MRN has been issued, the applicable import category, excluding category 101-01 to 101-11, must be used.

(E) Computer software

(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 payable, against the production of documentary evidence confirming the purpose and amount payable.

(b) The requirements of subsection (B)(i)(a) above should be adhered to, where applicable.

(ii) Local reproduction or copying of computer software packages

(a) Authorised Dealers may approve royalty payments to non-residents, including any licence fees payable from the local reproduction or copying of computer software packages provided that:

(aa) the licensor is an unrelated party (i.e. none of the parties have any direct and/or indirect interest or shareholding in each other); and

(bb) the application is accompanied by documentary evidence confirming the purpose and amount payable.

(b) Where applicable, minimum payments, advance payments and down payments are permissible provided that the advance payments and down payments are recoupable from future royalties or fees payable.

(c) In addition, payment of percentage-based fees is permissible provided that the client confirms it is normal in the trade concerned.

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

(a) 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

(a) Authorised Dealers may effect payment in respect of software 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.

(F) Evidence of importation

(i) Authorised Dealers must insist upon the presentation to them of the prescribed SARS Customs Declaration bearing the MRN as evidence that goods in respect of which transfers have been effected in terms of subsection (C) above have been cleared by Customs. These documents must be presented at the time foreign currency payments for imports are made where the goods have already been cleared by Customs, or in the case of advance payments in excess of R50 000 within four months of the date of payment. The detailed information shown on these documents must be checked against the information obtained at the time payment for the relative import was made in order to verify that the payment made relates to the goods that have been cleared.

(ii) Where the prescribed SARS Customs Declaration reflects the Customs Requested Procedure Code indicating that the goods are held in bonded warehouse, Authorised Dealers must diarise to view subsequent documentation from Customs, confirming the removal of the goods in bonded warehouse.

(iii) Authorised Dealers must be alert to the presentation of documentation that would indicate that the goods have been exported from South Africa. Such transactions are regarded as merchanting transactions and are subject to the provisions outlined in section B.12(A) of the Authorised Dealer Manual.

(iv) 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 concerned in writing, who should report the matter to the Financial Surveillance Department.

(v) Authorised Dealers should on a monthly basis diarise to pursue all outstanding import verifications with the importers concerned in writing (via registered mail or email) during the above-mentioned four month period. Should no response or an unsatisfactory response be received,

the matter should at any time after the four month period has lapsed but not later than ten months from the original payment date, be reported to the Financial Surveillance Department. In this regard, a fully motivated application must be submitted providing details of the transaction(s) including the customer name, value date, transaction reference number, Rand amount, and the Customs client number (CCN) reported on the FinSurv Reporting System. The outstanding advance payment transaction may be discharged from the Import Verification System only after confirmation has been received from the Financial Surveillance Department.

(vi) Where the relative consignment has been lost or resold in the country of supply, Authorised Dealers are responsible for ensuring that the foreign currency proceeds of any insurance claim or of the sale of the goods are properly accounted for in terms of the provisions of Regulation 6. The Import Verification System must be updated accordingly.

(vii) Authorised Dealers should note that non-compliance with the above directives will be viewed in a serious light.

(viii) Digital copies of the documents must be retained for a period of five years by Authorised Dealers for inspection purposes. Authorised Dealers should also point out to their clients that original documents must be retained for a period of five years for inspection purposes.

(G) General

(i) Philatelic imports

(a) Authorised Dealers may grant applicants foreign currency in payment for imports from abroad for philatelic purposes.

(b) No import permit will be issued in cases of this nature, but Authorised Dealers must furnish the applicant with a letter of authority, on the following lines, for submission to the appropriate government department:

"To whom it may concern

I/We hereby certify that ..... (full name and address of the applicant) is/are authorised, in terms of the Exchange Control Regulations, 1961, to import postage stamps, postage stamps on covers and postal stationery.

This authority expires on 31 December ……..... (Signed)."

(c) 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.

(d) 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.

(ii) Numismatic imports

(a) Authorised Dealers may grant applicants foreign currency in payment of other numismatic imports, excluding South African gold coins minted in 1962 and thereafter, imported from abroad.

(b) No import permit will be issued in cases of this nature, but Authorised Dealers must furnish the applicant with a letter of authority on the following lines for submission to the appropriate government department:

"To whom it may concern

I/We hereby certify that ..... (full name and address of the applicant) is/are authorised, in terms of the Exchange Control Regulations, 1961, to import currency coins, excluding South African Gold coins minted in 1962 and thereafter and also excluding medals and medallions or necklaces, pendants, girdles and brooches containing medallions.

This authority expires on 31 December ……..... (Signed)."

(c) 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.

(d) 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.

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

(f) To obviate the issue of numerous letters of authority, an Authorised Dealer may apply in its own name, on behalf of its clients, for a single letter of authority in respect of a specific issue of commemorative currency coins abroad.

(iii) Importation of new motor vehicles and caravans

(a) Authorised Dealers may provide residents with the necessary foreign currency to cover the cost of motor vehicles and caravans purchased outside South Africa for subsequent importation into South Africa, as well as freight, handling charges and other related costs, provided that:

(aa) the applicant undertakes, in terms of the provisions of Regulation 2(5), to offer for sale to an Authorised Dealer any part of the foreign currency allocation that was not used for the purchase of a motor vehicle or caravan; and

(bb) the Authorised Dealer calls for the subsequent submission of documentary evidence of importation of the motor vehicle or caravan and the cost thereof, and ensures that any difference between the foreign currency allocation and the cost of purchasing the motor vehicle or caravan is accounted for in terms of (aa) above.

(b) Applications submitted through a motor trader on behalf of a South African resident may be approved subject to the same conditions.

(H) Imports undertaking dispensation

(i) The Financial Surveillance Department would, on application through an Authorised Dealer, be prepared to consider requests to grant a dispensation to certain companies from the requirement to submit supporting documentation to their Authorised Dealers for every foreign exchange transaction related to an import transaction.

(ii) The imports undertaking dispensation application form may be downloaded from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance >General Public>Imports undertaking dispensation.

(iii) The imports undertaking dispensation application form must be accompanied by a resolution of the board of directors of the company, authorising the company to partake in the imports undertaking dispensation.

(iv) This dispensation is only applicable to companies, excluding Close Corporations, Trusts, Partnerships and Sole Proprietors, that in the course of their business:

(a) are involved in the regular importation of goods into South Africa from countries outside the Common Monetary Area;

(b) make foreign currency payments and/or payments to the credit of Non-resident Rand accounts in consideration of the importation of the goods referred to in (a);

(c) conclude a minimum of 120 import transactions per annum and have an import turnover in excess of R20 million per annum; and

(d) have been active in the import industry for a minimum period of three years.

(v) Where the Financial Surveillance Department has granted a company an imports undertaking dispensation, the company is required to adhere to the following conditions:

(a) an integrated form must be completed in all instances when foreign currency is purchased, either spot or forward, from an Authorised Dealer to make a foreign currency payment;

(b) the company must advise its Authorised Dealer that the transaction(s) is in respect of the business activities described in (iv) above;

(c) the company must create and maintain an audit trail within its records which should consist of the logical and orderly retention of the following documents for a period of five years for inspection purposes:

(aa) integrated form; and

(bb) supporting documentation required in terms of subsection (B) above;

(d) the directors of the company will be responsible for:

(aa) the design, implementation and effective operation of an adequate internal control system over import transactions;

(bb) the maintenance of related supporting documentation that will facilitate the prevention and detection of fraud and error; and

(cc) the establishment of policies and procedures that ensure compliance with the terms of the imports undertaking dispensation;

(e) an authorised representative of the Financial Surveillance Department may at any time inspect the records of the company to ascertain whether the Regulations and Authorised Dealer Manual are being complied with; and

(f) a letter of compliance, on the company's official letterhead and signed by two executive directors, confirming that the conditions applicable to the imports undertaking dispensation have been complied with, must be submitted to the Financial Surveillance Department per calendar year. The letter of compliance must be emailed to SARBUndertakings@resbank.co.za, specifying the wording "Imports Undertaking Letter of Compliance" in the subject field.

(vi) The company may, under the control of an Authorised Dealer and in accordance with the requirements of the Authorised Dealer Manual, continue to operate and maintain a CFC account in terms of section E.(B) of the Authorised Dealer Manual.

(vii) The company must inform the Financial Surveillance Department in writing through their Authorised Dealer of:

(a) any addition or amendment of an Authorised Dealer as identified on the imports undertaking dispensation application form;

(b) any addition or amendment to section B: Group Company of the imports undertaking dispensation application form; and

(c) any amendment to the information stated on the imports undertaking dispensation application form.

(viii) No addition or amendment referred to in (vii) above will be binding on the Financial Surveillance Department, unless such amendment and/or addition has:

(a) been recorded in writing within a period of one month from the date of such addition and/or amendment;

(b) been signed on behalf of the company by an authorised official;

(c) been submitted to the Financial Surveillance Department through the company's Authorised Dealer, together with a certified extract of a resolution of the board of directors of the company, in terms of which the authorised official has been authorised to bind the company to such addition and/or amendment; and

(d) been approved by the Financial Surveillance Department under the signature of a duly authorised Financial Surveillance Department official.

(ix) The Financial Surveillance Department may at any time, by notice in writing to the company or its Authorised Dealer, amend and/or supplement the requirements relating to the imports undertaking dispensation.

(x) Any instances of non-compliance with the conditions outlined above will be viewed in a serious light and the Financial Surveillance Department reserves the right to deal with such matters in a manner as contemplated in the Regulations.

(xi) All other foreign exchange transactions not related to imports do not form part of this dispensation and should be dealt with in terms of the provisions outlined in the Authorised Dealer Manual.

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B.2 Capital transfers

(A) General

(i) Except as provided for in subsections (B) to (J) below, residents are not allowed to transfer capital to any country outside the CMA. Applications for such transfers will be considered on merit.

(ii) Authorised Dealers should note that 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 unless specifically exempted in the Authorised Dealer Manual.

(iii) Authorised Dealers may, however, approve the outright sale, transfer and assignment of intellectual property by South African residents, excluding mandated state owned companies as defined in Schedule 2 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), to unrelated non-resident parties at an arm's length and a fair and market related price, provided Authorised Dealers view 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 above-mentioned dispensation excludes sale and lease back agreements.

(a) 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 and reported under category 210 on the FinSurv Reporting System.

(iv) Authorised Dealers may approve the licensing of intellectual property by South African residents to non-resident parties at an arm's length and a fair and market related price for the term of the agreement, provided Authorised Dealers view the licence agreement and an auditor's letter confirming the basis for calculating the royalty or licence fee.

(a) 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 and reported under category 201 on the FinSurv Reporting System.

(v) The sale, transfer, assignment and/or licensing of intellectual property in (iii) and (iv) above is subject to appropriate tax treatment.

(vi) Exemption from Regulation 10(1)(c) is, however, granted to institutions as defined in terms of the Intellectual Property Rights from Publicly Financed Research and Development Act, 2008 (Act No. 51 of 2008). Such institutions may transfer copyrighted material to an international

publishing house when publishing an article in an international journal and/or transfer material in terms of a material transfer agreement provided the value of the transaction does not exceed R50 000. Authorised Dealers must refer transactions in excess of the stipulated amount to the Financial Surveillance Department.

(B) Private individuals resident in South Africa

(i) Foreign investments by private individuals (natural persons) resident in South Africa

(a) Authorised Dealers may allow the transfer, as a foreign capital allowance, of up to a total amount of R10 million per calendar year per private individual who is a taxpayer in good standing and is 18 years and older, for investment purposes abroad. The funds to be transferred must be converted to foreign currency by the Authorised Dealer and may also be held in a resident foreign currency account in the name of the resident with any Authorised Dealer.

(b) Authorised Dealers are advised that a valid green bar-coded South African identity document or a Smart identity document card is the only acceptable document proving residency in South Africa.

(c) Prior to authorising the transaction, Authorised Dealers must ensure that their client is acquainted with the declaration contained in the integrated form.

(d) In terms of the SARS Tax Compliance Status (TCS) system, a TCS PIN letter will be issued to the taxpayer that will contain the tax number and TCS PIN. Authorised Dealers must use the TCS PIN to verify the taxpayer's tax compliance status via SARS eFiling 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 to verify the taxpayer's tax compliance status.

(e) In terms of the SARS Tax Compliance Status System introduced on 2016-04-18, a tax compliance status PIN letter will be issued to the taxpayer that will contain the tax number and PIN. Authorised Dealers must use the PIN to verify the taxpayer's tax compliance status via SARS eFiling prior to effecting any transfers.

(f) Authorised Dealers must retain a printed tax compliance status verification result for a period of five years for inspection purposes.

(g) Private individuals who do not have a tax reference number will

have to register at their local SARS branch.

(h) Authorised Dealers must bring to the attention of their clients that they may not enter into any transactions whereby capital or the right to capital will be directly or indirectly exported from South Africa (e.g. may not enter into a foreign commitment with recourse to South Africa). However, private individuals may raise loans abroad to finance the acquisition of foreign assets without recourse to South Africa.

(i) Resident individuals with authorised foreign assets may invest in South Africa, provided that where South African assets are acquired through an offshore structure (loop structure), the investment is reported to an Authorised Dealer as and when the transaction(s) is finalised as well as the submission of an annual progress report to the Financial Surveillance Department via an Authorised Dealer. The aforementioned party also has to view an independent auditor's written confirmation or suitable documentary evidence verifying that such transaction(s) is concluded on an arm's length basis, for a fair and market related price.

(j) Upon completion of the transaction in (i) above the Authorised Dealer must submit a report to the Financial Surveillance Department which should, inter alia, include the name(s) of the South African affiliated foreign investor(s), a description of the assets to be acquired (including inward foreign loans, the acquisition of shares and the acquisition of property), the name of the South African target investment company, if applicable and the date of the acquisition as well as the actual foreign currency amount introduced including a transaction reference number.

(k) In addition, all inward loans from South African affiliated foreign investors must comply with the directives issued in section I.3(B) of the Authorised Dealer Manual.

(l) Existing unauthorised loop structures (i.e. created by individuals prior to 2021-01-01) and/or unauthorised loop structures where the 40 per cent shareholding threshold was exceeded, must still be regularised with the Financial Surveillance Department.

(m) The Financial Surveillance Department will consider applications by private individuals who wish to invest in different asset classes offshore in excess of the above-mentioned limit. In terms of the TCS system, a TCS PIN letter will be issued to the taxpayer that will contain the tax number and TCS PIN. Authorised Dealers must use the TCS PIN to verify the taxpayer's tax compliance status via SARS eFiling prior to effecting any transfers. 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 to verify the taxpayer's tax compliance.

(n) Foreign currency accounts may be opened for private individuals (natural persons). Authorised Dealers may allow withdrawals from these accounts through the use of any authorised banking product. Funds withdrawn from these accounts may also be converted to Rand.

(ii) Capital transfers by private individuals (natural persons) resident in South Africa.

(a) The Rand equivalent of income earned abroad and own foreign capital introduced (with the exceptions of that stated below) into South Africa on or after 1997-07-01 by private individuals resident in South Africa, may be retransferred abroad (excluding any growth on the funds introduced), provided that the Authorised Dealer concerned is satisfied that the income and/or capital had previously been converted to Rand, by viewing documentary evidence confirming the amounts involved.

(b) Authorised Dealers are advised that where income is earned abroad as a result of services rendered by private individuals resident in South Africa, it would be a requirement for such individuals to be abroad physically while rendering these services in order to qualify for the aforementioned dispensation.

(c) The sale proceeds of South African assets received from non-residents and export proceeds are therefore not eligible for retransfer abroad by private individuals resident in South Africa.

(d) Foreign capital repatriated by residents in terms of the Exchange Control Amnesty and Amendment of Taxation Laws Act, 2003 (Act No. 12 of 2003) and on which the 5 per cent levy has been paid, is not eligible for retransfer abroad.

(iii) Foreign parent company share incentive or share option schemes

(a) Private 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 and/or from the proceeds of authorised foreign assets. In this regard, (i) above and section B.4(A)(i) of the Authorised Dealer Manual must be complied with.

(b) All applications falling outside the ambit of this dispensation must be referred to the Financial Surveillance Department with full details.

(c) Any recharge arrangements in connection with a foreign parent company share incentive or share option schemes must be referred to the Financial Surveillance Department.

(iv) Rights on foreign securities owned by private individuals (natural persons) resident in South Africa

(a) Private 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. In this regard, (i) above and section B.4(A)(i) of the Authorised Dealer Manual must be complied with.

(C) South African companies

(i) Foreign direct investments not exceeding R1 billion per applicant company

(a) Authorised Dealers may approve requests by mandated state owned companies, as defined in Schedule 2 of the Public Finance Management Act, 1999 (Act No.1 of 1999) and companies wishing to make bona fide new outward foreign direct investments into companies, branches and offices outside the CMA, including requests that fall outside their current line of business, where the total cost of such investments does not exceed R1 billion per company per calendar year.

(b) Foreign currency denominated facilities may be extended by Authorised Dealers to South African companies for the financing of approved foreign direct investments.

(c) When considering requests of this nature, Authorised Dealers must have the following documents and information in their possession:

(aa) the name and registration number of the applicant company;

(bb) the names, domicile and percentage equity interest of all the shareholders in the applicant company (this only applies to private companies and excludes public and listed companies);

(cc) the applicant company's latest available financial statements verifying, inter alia, the applicant's nature of business;

(dd) details of how the investment will be funded (e.g. cash to be transferred and reflected as share capital or shareholders loans, guarantees to be issued), as well as details of capital goods that need to be exported from South Africa;

(ee) the proposed structure through which the foreign target entity will be held (i.e. directly from South Africa or via an interposed or holding company); and

(ff) the name(s) of the offshore target company(ies) and a description of what type of business it will be involved in.

(d) The following criteria must be strictly applied by Authorised Dealers when considering these requests:

(aa) state owned companies may not use low-tax jurisdictions as a conduit for outward foreign direct investments elsewhere in the world. This restriction is not applicable where the investment is made directly into a low-tax jurisdiction;

(bb) for statistical purposes, at least 10 per cent of the foreign target entity's voting rights must be obtained;

(cc) passive real-estate investments focused on achieving long-term appreciation of asset values with limited day-to-day management of the asset itself are excluded from this dispensation; and

(dd) where Authorised Dealers are in doubt and the conditions outlined above are not met, such requests must be referred to the Financial Surveillance Department.

(e) At the time of approving the investment, Authorised Dealers must report the following information to the Financial Surveillance Department:

(aa) the name and registration number of the applicant company and its nature of business;

(bb) the names, domicile and percentage equity interest of all the shareholders in the applicant company (this only applies to private companies and excludes public and listed companies);

(cc) name and domicile of the foreign target entity and its nature of business, also specifying whether this is the establishment of a new or an investment into an existing foreign entity;

(dd) the percentage equity interest and voting rights acquired in the foreign target entity;

(ee) details of how the investment will be funded (e.g. cash to be transferred and reflected as share capital or shareholders loans, guarantees to be issued), as well as details of capital goods exported from South Africa, if applicable. Where cash is

to be transferred from South Africa, the amount and transaction reference number must be reported to the Financial Surveillance Department;

(ff) where applicable, the registered name and domicile of any foreign domiciled holding company, established to hold the target investment; and

(gg) where a new investment is made without funds being transferred from South Africa, the proposed investment must still be approved in terms of (c)(aa) to (ff) above and reported in the same manner as outlined herein.

(f) Authorised Dealers must inform their clients of the following conditions that are applicable to these investments:

(aa) the financial statements of the foreign target entities and holding companies must be submitted to the Financial Surveillance Department on an annual basis;

(bb) the financial accounts of approved foreign branch operations and the income and expenditure statements of approved foreign offices must be submitted to the Financial Surveillance Department on an annual basis;

(cc) in the event of the foreign investment being disposed of to non-residents, the net sale proceeds must be repatriated to South Africa in terms of the provisions of Regulation 6, under advice to the Financial Surveillance Department. Foreign investments to be disposed of to third-party South African residents require the specific prior written approval of the Financial Surveillance Department;

(dd) expansion of the foreign target entity's business is permitted, provided that such expansion is financed within the R1 billion foreign direct investment dispensation or alternatively without recourse to South Africa;

(ee) Corporates with authorised foreign assets may invest in South Africa, provided that where South African assets are acquired through an offshore structure (loop structure), the investment is reported to an Authorised Dealer as and when the transaction(s) is finalised as well as the submission of an annual progress report to the Financial Surveillance Department via an Authorised Dealer. The aforementioned party also has to view an independent auditor's written confirmation or suitable documentary evidence verifying that such transaction(s) is concluded on an arm's length basis, for a fair and market related price;

(ff) Upon completion of the transaction in (ee) above the Authorised Dealer must submit a report to the Financial Surveillance Department which should, inter alia, include the name(s) of the South African affiliated foreign investor(s), a description of the assets to be acquired (including inward foreign loans, the acquisition of shares and the acquisition of property), the name of the South African target investment company, if applicable and the date of the acquisition as well as the actual foreign currency amount introduced including a transaction reference number;

(gg) In addition, all inward loans from South African affiliated foreign investors must comply with the directives issued in section I.3(B) of the Authorised Dealer Manual;

(hh) Existing unauthorised loop structures (i.e. created by corporates prior to 2021-01-01) and/or unauthorised loop structures where the 40 per cent shareholding threshold was exceeded, must still be regularised with the Financial Surveillance Department;

(ii) applicants may increase their approved equity interest and/or voting rights in the foreign target entity subject to the provisions of (kk) below. For classification purposes, should the applicants reduce or dilute their equity interest and/or voting rights below 10 per cent such information must be reported to the Financial Surveillance Department; any change in the nature of the foreign target entity's business must be reported to the Financial Surveillance Department;

(jj) requests to transfer unutilised amounts and/or additional working capital to foreign target entities and/or increase an applicant's approved equity interest and/or voting rights in a foreign target entity may be approved by Authorised Dealers in subsequent years provided that:

(1) the amount to be remitted will not result in the applicant exceeding the R1 billion foreign direct investment dispensation; and

(2) full details of such transfers and the purpose thereof must be forwarded by the Authorised Dealer to the Financial Surveillance Department;

(kk) requests to transfer the normal monthly running expenses of existing buying and/or selling offices established by local merchants may be approved by the Authorised Dealers within the foreign direct investment limit of R1 billion. Where existing buying and/or selling offices levy a charge for their services in

the form of commissions, foreign currency to cover this charge may be made available, provided that:

(1) the client confirms that the rate of commission is normal in the particular trade concerned;

(2) no other funds are being remitted from South Africa to cover the maintenance and expenses of the office; and

(3) the office is run on a non-profit earning basis.

(ll) profits earned by foreign branches and offices must be repatriated to South Africa annually since these entities have not been exempted from the provisions of Regulation 6;

(mm) excess profits earned by approved foreign entities should be declared as dividends on an annual basis. However, such dividends may be retained offshore and be used for any purpose offshore. Similarly, any dividends that are repatriated to South Africa may be retransferred abroad at any time and used for any purpose provided that there is no recourse to South Africa, except as provided for in (nn) below;

(nn) all dividends declared by the approved foreign entities, the amounts repatriated to South Africa or alternatively the dividend amounts retained abroad, together with an indication of how such funds were utilised offshore, should be reported to the Financial Surveillance Department on an annual basis;

(oo) where guarantees from South Africa have been issued and such guarantees are implemented, payment in terms thereof may be effected, provided that full details of the circumstances giving rise thereto are reported to the Financial Surveillance Department immediately;

(pp) South Africa must remain the place of effective management for the applicant company and under no circumstances may the applicants re-domicile without the specific prior written approval of the Financial Surveillance Department; and the Financial Surveillance Department reserves the right to instruct the applicant company to dispose of the foreign investment and for the proceeds to be repatriated to South Africa, in the event of the above-mentioned criteria and conditions not being complied with.

(ii) Foreign direct investments exceeding R1 billion per applicant company per calendar year

(a) Foreign direct investments outside the CMA by mandated state owned companies, as defined in Schedule 2 of the Public Finance Management Act, 1999 (Act No. 1 of 1999) and companies, including requests that fall outside their current line of business, where the total cost of such investments exceeds R1 billion per investment, require the prior written approval of the Financial Surveillance Department.

(b) For statistical purposes, at least 10 per cent of the foreign target entity's equity and/or voting rights must be obtained.

(c) Foreign currency denominated facilities may be extended by Authorised Dealers to South African companies for the financing of approved foreign direct investments.

(d) Applications to the Financial Surveillance Department should, inter alia, include the following:

(aa) the business plan of the applicant; full details of the longer-term monetary benefits (excluding dividend flows) to be derived by South Africa on a continuous basis, substantiated by cash flow forecasts;

(bb) a pro forma balance sheet of the foreign target entity reflecting the financial position immediately prior to and after the investment from South Africa;

(cc) the percentage equity to be acquired in the foreign target entity and the percentage voting rights to be acquired;

(dd) the names and domicile of the shareholders of the applicant company;

(ee) the proposed financial structure of the foreign target entity to be acquired or to be established (i.e. issued share capital, loan funds, guarantees to be issued from South Africa or credit facilities to be availed of abroad, the respective amounts involved);

(ff) the manner in which the funds required will be employed; and an estimate of the annual running expenses of the foreign target entity.

(e) Authorised Dealers must inform their clients of the following conditions that are applicable to investments exceeding R1 billion per applicant company per calendar year:

(aa) while there are no limits on new outward foreign direct investments by South African companies, the Financial

Surveillance Department reserves the right to stagger capital outflows relating to very large foreign investments so as to manage any potential impact on the foreign exchange market;

(bb) on application, foreign finance may be raised on the strength of the applicant company's South African balance sheet to finance foreign acquisitions;

(cc) companies wishing to invest in countries outside the CMA may apply to the Financial Surveillance Department to engage in corporate asset or share swap transactions in order to fund such investments or to repay existing offshore debt. Similarly, requests for share placements and bond issues offshore by locally listed companies will also be considered;

(1) companies that have existing approved subsidiaries abroad are allowed to expand such activities without the prior written approval of the Financial Surveillance Department, provided that:

(2) such expansion is financed by foreign borrowings, without recourse to South Africa, or by the employment of profits earned by that subsidiary;

(3) the benefits to South Africa can be demonstrated; and

(4) the local parent company places its proposed plans for the expansion of the investment on record with the Financial Surveillance Department at an early stage;

(dd) the retention of any balance of the profits earned would, bearing in mind the provisions of Regulation 6, have to be negotiated with the Financial Surveillance Department at the time of the normal annual report back;

(ee) dividends declared by offshore subsidiaries of South African companies may be retained offshore and used for any purpose without any recourse to South Africa. Dividends repatriated to South Africa may be retransferred abroad at any time and used for any purpose, provided that there is no recourse to South Africa.

(ff) all dividends declared by the offshore operation(s), the amounts repatriated to South Africa, or alternatively the dividend amounts retained abroad together with an indication of how such funds were utilised offshore, should be reported to the Financial Surveillance Department on an annual basis; and

(gg) Corporates with authorised foreign assets may invest in South Africa, provided that where South African assets are acquired through an offshore structure (loop structure), the investment is reported to an Authorised Dealer as and when the transaction(s) is finalised as well as the submission of an annual progress report to the Financial Surveillance Department via an Authorised Dealer. The aforementioned party also has to view an independent auditor's written confirmation or suitable documentary evidence verifying that such transaction(s) is concluded on an arm's length basis, for a fair and market related price.

(hh) Upon completion of the transaction in (gg) above the Authorised Dealer must submit a report to the Financial Surveillance Department which should, inter alia, include the name(s) of the South African affiliated foreign investor(s), a description of the assets to be acquired (including inward foreign loans, the acquisition of shares and the acquisition of property), the name of the South African target investment company, if applicable and the date of the acquisition as well as the actual foreign currency amount introduced including a transaction reference number.

(ii) In addition, all inward loans from South African affiliated foreign investors must comply with the directives issued in section I.3(B) of the Authorised Dealer Manual.

(jj) Existing unauthorised loop structures (i.e. created by corporates prior to 2021-01-01) and/or unauthorised loop structures where the 40 per cent shareholding threshold was exceeded must still be regularised with the Financial Surveillance Department.

(iii) Foreign portfolio investments by companies not exceeding R1 billion per applicant company

(a) Authorised Dealers may approve requests by companies wishing to make bona fide new outward foreign portfolio investments into companies, branches and offices outside the CMA, including requests that fall outside their current line of business, where the total cost of such investments does not exceed R1 billion per company per calendar year.

(b) All conditions and requirements as outlined in subsection (i) above, except for subsection (i)(d)(bb) and (cc), will apply to this dispensation.

(c) For statistical purposes, investments approved under this dispensation are for less than 10 per cent of the foreign target

entity's voting rights and must be suitably reported.

(d) Foreign portfolio investments must be reported under category 830 - Details of payments not classified and in the description field insert 'Portfolio Investments'.

(e) Under no circumstances may local guarantees or suretyships be issued or South African assets encumbered under this dispensation.

(f) The financial statements and/or portfolio investment status report of the foreign target entities must be submitted to the Financial Surveillance Department on an annual basis.

(g) For classification purposes, any increase in the equity interest and/or voting rights in the foreign target entity from 10 per cent and above must be reported to the Financial Surveillance Department.

(h) Any transaction for an amount exceeding R1 billion per applicant company must be referred to Financial Surveillance Department for prior approval.

Note: This dispensation should not be confused with portfolio investments acquired by institutional investors in terms of their applicable prudential limits.

(iv) Rights on foreign securities owned by companies

(a) All applications by companies to take up rights on new shares in foreign companies must be submitted to the Financial Surveillance Department together with full details of the underlying transaction.

(D) International headquarter companies

(i) Subject to registration with the Financial Surveillance Department for reporting purposes, newly established international headquarter companies (headquarter company) that meet the following shareholding and asset criteria may invest offshore without restriction:

(a) no shareholder in the headquarter company, whether alone or together with any other company forming part of the same group of companies as a shareholder, may hold less than 10 per cent of the shares and voting rights;

(b) no more than 20 per cent of the headquarter company shares may be directly or indirectly held by residents;

(c) at the end of each financial year, at least 80 per cent of the assets of the holding company must consist of foreign assets; and

(d) for the purposes of the requirement in (c) above, cash, cash equivalents and debt with a term of less than one year should not be taken into account.

(ii) Registration with the Financial Surveillance Department will remain valid for as long as the criteria in (i) above is adhered to for the duration of that year of assessment as well as all previous years of assessment.

(iii) Reporting of the extent of the foreign investments will be required for statistical purposes which must, inter alia, include the source of funds, new or existing funds, destination of funds, loan funds from local sources.

(iv) Authorised Dealers must submit annually to the Financial Surveillance Department a detailed organogram of the headquarter company as well as their latest available audited financial statements.

(v) In order to report all transactions on behalf of the headquarter company via the Reporting System, a ring-fenced resident foreign currency account in the name of the company must be opened.

(vi) Certain reporting requirements as outlined in section B.4 of the Operations Manual as mentioned in section J.(C) of the Authorised Dealer Manual will have to be adhered to as a result of the nature of these transactions over this account.

(vii) Headquarter companies will be treated by the Financial Surveillance Department as non-resident companies, but are still required to report all cross-border transactions. Transactions by South African entities with headquarter companies will therefore be viewed as transactions with non-residents.

(viii) Headquarter companies can freely borrow from abroad and such funds may be deployed locally or offshore. These transactions are regarded as occurring outside South Africa.

(ix) Any lending by local banks to headquarter companies will form part of the banks' macro-prudential limits.

(E) South African holding company for African and offshore operations

(i) Listed companies

(a) Companies listed on a South African exchange may establish one subsidiary within the group known as a DTMC to hold African and offshore operations for foreign direct investment purposes.

(b) For the purposes of this section, the DTMC is treated as a non-resident company for reporting and monitoring purposes even though it is a South African tax resident, which is incorporated in

South Africa, has its place of effective management in South Africa and will be subject to the following conditions:

(aa) the DTMC must register with the Financial Surveillance Department;

(bb) at the time of registration, the following information must be furnished to the Financial Surveillance Department:

(1) the name(s) of the offshore target company(ies);

(2) description of what type of business the DTMC will be involved in;

(3) jurisdictions in which the offshore companies are operating in;

(4) details of the envisaged investment;

(5) the percentage equity interest and voting rights acquired in the foreign target entity; and

(6) overview of the treasury management operations.

(cc) the DTMC must be a South African tax resident, be incorporated in South Africa and have its place of effective management in South Africa;

(dd) the treasury management operations and treasury accounts of the DTMC must be held locally with an Authorised Dealer;

(ee) the DTMC will remain a wholly owned subsidiary of the South African parent company;

(ff) the Authorised Dealer concerned may authorise transfers from the South African parent company to the DTMC up to R3 billion per calendar year in respect of new investments, expansions as well as other transactions of a capital nature. These transfers should not be undertaken to avoid tax;

(gg) in addition to (ff) above, amounts of up to 25 per cent of the listed company's market capitalisation will, on application to the Financial Surveillance Department be considered, provided that the DTMC is able to demonstrate benefits to South Africa;

(hh) the DTMC will be allowed to freely raise and deploy capital offshore, provided that any recourse is limited to the DTMC and its offshore subsidiaries;

(ii) additional domestic capital and guarantees will be allowed to fund bona fide foreign direct investments in the same manner as the current foreign direct investment allowance;

(jj) the DTMC will be allowed to operate as a cash management centre for South African companies. Cash pooling is allowed, subject to the following conditions:

(1) local income such as fees and/or interest payable to the DTMC generated from cash management is freely transferable offshore;

(2) excess cash derived from South African operations may be placed in the DTMC up to the current annual limit together with cash derived from foreign operations;

(3) cash may be withdrawn from the DTMC for funding foreign and/or domestic operations;

(4) intra-day cash pooling transactions should be dealt with on a funds-in funds-out basis. Such transactions must be reported under category 297 with the subject field indicator to read 'DTMC' and the registration number of the DTMC must be annotated in the description field. The application number of the Authorised Dealer and the authority reference number issued by the Financial Surveillance Department, where applicable, must be supplied in the applicable fields; and

(5) inward loans within the group with a tenor of at least one month from the DTMC to local beneficiaries may be approved by Authorised Dealers provided such transactions are permissible in terms of the Authorised Dealer Manual and should be reported accordingly.

(kk) the DTMC may choose its functional currency and operate a foreign currency account and a Rand denominated account for operational expenses. These accounts must be operated on a non-resident basis;

(ll) any lending by an Authorised Dealer to the DTMC will form part of the Authorised Dealer's macro-prudential limit;

(mm) the DTMC may enter into hedging transactions with foreign banks and/or Authorised Dealers without recourse to South Africa. Where hedging transactions are entered into with Authorised Dealers, the provisions of section D.2 of the Authorised Dealer Manual must be adhered to;

(nn) certain reporting requirements as outlined in section B.4 of the Operations Manual as mentioned in section J.(C) of the Authorised Dealer Manual will have to be adhered to as a result of the nature of these transactions;

(oo) the DTMC may not settle any transactions on behalf of any entities within the group. Each entity must settle its own obligations. It may also not settle transactions on behalf of any third party;

(pp) applications for the establishment of jointly owned DTMCs will be considered by the Financial Surveillance Department; and

(qq) the management of the DTMC should, within three months after the financial year end, confirm to the Financial Surveillance Department that the conditions relevant to the DTMC structure have been adhered to and that the current annual limit has not been exceeded.

(ii) Unlisted companies

(a) Unlisted companies may establish one subsidiary within the group as a DTMC to hold African and offshore operations for foreign direct investment purposes.

(b) For the purposes of this subsection, the DTMC is treated as a non-resident company and is subject to the following conditions:

(aa) the DTMC must register with the Financial Surveillance Department;

(bb) at the time of registration, the following information must be furnished to the Financial Surveillance Department:

(1) the name(s) of the offshore target company(ies);

(2) description of what type of business the DTMC will be involved in;

(3) jurisdictions in which the offshore companies are operating in;

(4) details of the envisaged investment;

(5) the percentage equity interest and voting rights acquired in the foreign target entity; and

(6) overview of the treasury management operations.

(cc) the DTMC must be a South African tax resident, be incorporated in South Africa and have its place of effective management in South Africa;

(dd) the treasury operations and treasury accounts of the DTMC must be held locally with an Authorised Dealer;

(ee) the DTMC will remain a wholly owned subsidiary of the South African parent company;

(ff) the Authorised Dealer concerned may authorise transfers from the parent company to the DTMC up to R2 billion per calendar year in respect of new investments, expansions as well as other transactions of capital nature;

(gg) additional amounts may be considered on application to the Financial Surveillance Department;

(hh) the DTMC will be allowed to freely raise and deploy capital offshore, provided that any recourse is limited to the DTMC and its offshore subsidiaries;

(ii) additional domestic capital and guarantees will be allowed to fund bona fide foreign direct investments in the same manner as the current foreign direct investment allowance;

(jj) the DTMC will be allowed to operate as a cash management centre for South African entities. Cash pooling is allowed, subject to following conditions:

(1) local income such as fees and/or interest payable to the DTMC generated from cash management is freely transferable offshore;

(2) excess cash derived from South African operations may be placed in the DTMC up to the current annual limit together with cash derived from foreign operations; cash may be withdrawn from the DTMC for funding foreign and/or domestic operations;

(3) intra-day cash pooling transactions should be dealt with on a funds-in funds-out basis. Such transactions must be reported under category 297 with the subject field indicator to read ‘DTMC’ and the registration number of the DTMC must be annotated in the description field. The application number of the Authorised Dealer and the authority reference number issued by the Financial Surveillance Department, where applicable, must be supplied in the applicable fields; and

(4) inward loans within the group with a tenor of at least one month from the DTMC to local beneficiaries may be approved by Authorised Dealers provided such transactions are permissible in terms of the Authorised Dealer Manual and should be reported accordingly.

(kk) the DTMC may choose its functional currency and operate a foreign currency account and a Rand denominated account for operational expenses. These accounts must be operated on a non-resident basis;

(ll) any lending by local banks to the DTMC will form part of the Authorised Dealer's macro-prudential limit;

(mm) the DTMC may enter into hedging transactions with foreign banks and/or Authorised Dealers without recourse to South Africa. Where hedging transactions are entered into with Authorised Dealers, the provisions of section D.2 of the Authorised Dealer Manual must be adhered to;

(nn) certain reporting requirements as outlined in section B.4 of the Operations Manual as mentioned in section J.(C) of the Authorised Dealer Manual will have to be adhered to as a result of the nature of these transactions; and

(oo) the management of the DTMC should, within three months after the financial year end, confirm to the Financial Surveillance Department that the conditions relevant to the DTMC structure have been adhered to and that the current annual limit has not been exceeded.

(iii) Financial services sector

(a) Companies operating in the financial services sector (i.e., registered banks and insurance companies) may establish one subsidiary within the group as a DTMC to hold African and offshore operations for foreign direct investment purposes and domestic treasury management operations.

(b) The DTMC will be subject to the following conditions:

(aa) an application must be submitted to the Financial Surveillance Department through an Authorised Dealer;

(bb) the DTMC must be a South African tax resident, be incorporated in South Africa and have its place of effective management in South Africa;

(cc) as an exception to (bb) above, until 2018-12-31, a treasury management company that was in existence prior to 2018-02-21 and was incorporated in a foreign tax jurisdiction and the place of effective management of that company is in South Africa, was considered for the DTMC dispensation;

(dd) the Financial Surveillance Department may authorise transfers from the parent company to the DTMC up to R3 billion per calendar year in respect of new investments, expansions as well as other transactions of capital nature. There will be no restriction up to this amount on transfers in and out of the DTMC, provided that such transfers are not undertaken to avoid tax;

(ee) additional amounts may be considered on application to the Financial Surveillance Department and the Prudential Authority, however, the additional amounts of up to 25 per cent of the listed company's market capitalisation mentioned in subsection (i)(b)(gg) above will not apply;

(ff) the treasury operations and treasury accounts of the DTMC must be held locally with an Authorised Dealer;

(gg) the DTMC may choose its functional currency and operate a foreign currency account and a Rand denominated account for operational expenses. These accounts must be operated on a non-resident basis;

(hh) the DTMC will remain a wholly owned subsidiary of the South African parent company;

(ii) any lending by an Authorised Dealer to the DTMC will form part of the Authorised Dealer's macro-prudential limit;

(jj) certain reporting requirements as outlined in section B.4 of the Operations Manual as mentioned in section J.(C) of the Authorised Dealer Manual will have to be adhered to as a result of the nature of these transactions; and

(kk) the management of the DTMC should, within three months after the financial year end, confirm to the Financial Surveillance Department that the conditions relevant to the DTMC structure have been adhered to and that the current annual limit has not been exceeded.

(F) Technology, media, telecommunications, exploration and other research and development companies

(i) Authorised Dealers are advised that unlisted technology, media, telecommunications, exploration and other research and development companies may apply to the Financial Surveillance Department for approval to primary list offshore to raise foreign loans and capital for their operations, subject to the following conditions:

(a) registration with the Financial Surveillance Department;

(b) such a company must operate as a South African tax resident and be incorporated and effectively managed and controlled in South Africa;

(c) intellectual property must remain registered in South Africa, but may be assigned offshore, subject to appropriate tax treatment;

(d) the offshore listed entity must secondary list in South Africa within two years following the successful offshore listing;

(e) a report must be submitted to the Financial Surveillance Department on the status of the offshore listing; and

(f) an annual report must be submitted to the Financial Surveillance Department on the operations, including details of funds raised offshore.

(ii) Authorised Dealers are advised that unlisted South African technology, media, telecommunications, exploration and other research and development companies may establish an offshore company to raise foreign funding for their operations, subject to the following conditions:

(a) registration with the Financial Surveillance Department;

(b) the established offshore company must be a tax resident in South Africa;

(c) full details of the percentage shareholding in the offshore company including the group structure must be provided; and

(d) an annual report must be submitted to the Financial Surveillance Department on the operations, including details of funds raised offshore.

(iii) Companies established in terms of (ii) above, may in turn hold investments and/or make loans into South Africa.

(iv) Also see section G.(K)(iv) of the Authorised Dealer Manual.

(G) South African private equity funds

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

(a) a copy of the local en-commandite partnership's mandate to invest outside the CMA 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;

(b) cash flow projections for a 36-month period indicating the amount of capital to be exited from South Africa for investment purposes; and

(c) the percentage equity interest and voting rights acquired in the foreign target entity.

(ii) Private equity funds with authorised foreign assets may invest in South Africa, provided that where South African assets are acquired through an offshore structure (loop structure), the investment is reported to an Authorised Dealer as and when the transaction(s) is finalised as well as the submission of an annual progress report to the Financial Surveillance Department via an Authorised Dealer. The aforementioned party also has to view an independent auditor's written confirmation or suitable documentary evidence verifying that such loop transaction(s) is concluded on an arm's length basis, for a fair and market related price.

(iii) The information called for in subsection (i) above must be furnished by the Authorised Dealer to the Financial Surveillance Department and should, inter alia, include the name(s) of the South African affiliated foreign investor(s), a description of the assets to be acquired (including inward foreign loans, the acquisition of shares and the acquisition of property), the name of the South African target investment company, if applicable and the date of the acquisition as well as the actual foreign currency amount introduced including a transaction reference number.

(iv) In addition, all inward loans from South African affiliated foreign investors must comply with the directives issued in section I.3(B) of the Authorised Dealer Manual.

(v) Existing unauthorised loop structures (i.e. created by private equity funds prior to 2021-01-01) and/or unauthorised loop structures must still be regularised with the Financial Surveillance Department.

(vi) Institutional investors and Authorised Dealers 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 their

respective foreign investment allowances.

(vii) The Financial Sector Conduct Authority Regulations governing the permissibility of these investments for institutional investors as part of their portfolios must also be complied with.

(H) South African institutional investors

(i) Institutions subject to a prudential limit in respect of foreign exposure

(a) Institutional investors refer to:

(aa) pension funds registered under the Pension Funds Act;

(bb) life insurers licensed under the Insurance Act to conduct life insurance business with a distinction between:

1. non-linked business, i.e. the underwritten policy business other than individual and fund investment linked business; and

2. linked business, i.e. individual and fund investment linked business;

(cc) CIS managers registered under CISCA to administer collective investment schemes; and

(dd) discretionary financial services providers authorised under the FAIS Act registered with the Financial Surveillance Department as institutional investors. A discretionary financial services provider means a Category II and IIA financial services provider authorised in terms of the FAIS Act.

(b) Institutional investors may invest funds offshore up to the applicable prudential limit and subject to the requirements as outlined below.

(c) Discretionary financial services providers may elect to register with the Financial Surveillance Department as an institutional investor. Registration is required for all discretionary financial services providers wishing to invest and/or manage funds offshore in respect of retail as well as institutional assets. A request, on the official letterhead of the discretionary financial services provider, should be emailed to sarbportfolio@resbank.co.za. Subsequent to registration, the requirements outlined in (viii) below must also be adhered to.

(d) For discretionary financial services providers to register with the Financial Surveillance Department as an institutional investor, it

(e) must be authorised by the Financial Sector Conduct Authority as a discretionary financial services provider.

(f) For an authorised user, excluding an external authorised user, (as defined in the Financial Markets Act) to register with the Financial Surveillance Department as an institutional investor, it must in addition to the registration with a South African exchange also be authorised by the Financial Sector Conduct Authority as a discretionary financial services provider.

(g) Discretionary financial services providers who elect not to register as institutional investors with the Financial Surveillance Department, may not invest and/or manage funds offshore in respect of retail as well as institutional assets, but will be able to acquire foreign exposure for their clients only through another domestic institutional investor. These discretionary financial services providers, who elect not to register with the Financial Surveillance Department, are treated as intermediaries and are exempt from the requirements as outlined in (viii) below.

(h) Discretionary financial services providers are required to declare their status regarding registration with the Financial Surveillance Department when they invest with another domestic institutional investor.

(i) Should a discretionary financial services provider elect to withdraw its registration with the Financial Surveillance Department, a request, on its official letterhead should be emailed to sarbportfolio@resbank.co.za.

(ii) The distinction between institutional assets and retail assets

(a) The reporting procedure requires that a distinction be made between institutional assets under management and retail assets under management.

(b) Institutional assets

(aa) Institutional assets refer to assets held or managed on behalf of other institutional investors as well as assets received indirectly from institutional investors through an intermediary, such as an administrative financial services provider, nominee company or a discretionary financial services provider not registered as an institutional investor with the Financial Surveillance Department. All assets sourced from an intermediary identified as institutional assets applicable to the underlying institutional investor should be included as institutional assets in the quarterly asset allocation report of

the managing institutional investor.

(c) Retail assets

(aa) Retail assets refer to assets received from individuals and other entities such as companies, trusts, as well as assets received indirectly from retail clients through an intermediary, such as an administrative financial services provider, nominee company or a discretionary financial services provider not registered as an institutional investor with the Financial Surveillance Department. All assets sourced from an intermediary identified as retail assets applicable to the underlying retail client should be included as retail assets in the quarterly asset allocation report of the reporting institutional investor.

(d) Foreign assets

(aa) Foreign assets are defined by the Financial Surveillance Department as the sum of foreign currency denominated assets and Rand denominated foreign assets.

(bb) Foreign currency denominated assets may be acquired directly through foreign currency transfers from South Africa.

(cc) Rand denominated foreign assets may be acquired indirectly through investments with another domestic institutional investor or by acquiring approved inward listed investments, excluding inward listed shares, based on foreign referenced assets or issued by foreign entities, listed on a South African exchange. (See section H. of the Authorised Dealer Manual for the definition of inward listed shares.)

(iii) The distinction between managing institution and originating institution

(a) Managing institution

(aa) A managing institution is a life insurer, CIS manager or discretionary financial services provider registered with the Financial Surveillance Department that offers investment products to institutional and/or retail clients.

(b) Originating institution

(aa) An originating institution is an institutional investor that qualifies for a prudential limit that elects to invest in products offered by a managing institution, either directly or through an intermediary, such as a discretionary financial services

(bb) provider not registered as an institutional investor with the Financial Surveillance Department or an administrative financial services provider.

(iv) Prudential limits

(a) The foreign exposure of retail assets may not exceed:

(aa) 30 per cent in case of pension funds and the non-linked business of life insurers; and 40 per cent in case of discretionary financial services providers registered as institutional investors with the Financial Surveillance Department, CIS managers and the linked business of life insurers.

(b) The prudential limit in respect of foreign exposure is applied to an institutional investor's total retail assets under management.

(c) The provisions of subsection (G) above should also be adhered to in respect of any offshore acquisitions held indirectly via a local private equity fund.

(d) Compliance with the prudential limit does not preclude an institutional investor from also having to comply with any relevant prudential regulations as administered by the Financial Sector Conduct Authority.

(v) African allowance

(a) Institutional investors are allowed to invest an additional 10 per cent of their total retail assets under management in African assets.

(b) The provisions of subsection (G) above should also be adhered to in respect of any offshore acquisitions held indirectly via a local private equity fund.

(c) African debt encompasses debt securities issued and listed on a South African exchange by African governments, African public entities, African local authorities, African development agencies and by non-African development institutions where the funds raised are earmarked for use in Africa.

(d) African assets can be acquired as follows:

(aa) directly by acquiring foreign currency denominated portfolio assets in Africa through foreign currency transfers from South Africa. A collective investment scheme in South Africa sanctioned by the Financial Sector Conduct Authority is

preferred in instances where the institutional investor wishes to obtain direct African exposure by means of a pooling arrangement (e.g. an African fund set up specifically by a managing institution);

(bb) indirectly by acquiring approved inward listed debt instruments listed on a South African exchange and classified as 'African'. (See (c) above for the criteria for 'African' classification);

(cc) indirectly, on application to the Financial Surveillance Department through an Authorised Dealer, through a foreign registered fund mandated to invest into Africa. The foreign registered fund should be mandated to invest at least 75 per cent of funds under management into Africa. A copy of the mandate or prospectus must accompany such application; or

(dd) indirectly, on application to the Financial Surveillance Department through an Authorised Dealer, through investments in instruments issued by African entities that are listed on non-African exchanges to raise funds earmarked for use in Africa.

(e) This dispensation should not be used by an institutional investor to circumvent the adherence to the respective prudential limits by routing investments earmarked for the offshore market via Africa, where the institutional investor can influence the decision making process.

(f) Compliance with the African allowance limit does not preclude an institutional investor from also having to comply with any relevant prudential regulations as administered by the Financial Sector Conduct Authority.

(vi) Requirements for Authorised Dealers

(a) Authorised Dealers must ensure that when facilitating the transfer of funds on behalf of institutional investors, where such funds represent retail assets under management, the underlying retail clients' accounts are not debited for conversion purposes under any circumstances. A separate trust account, either in the name of the managing institution or in the name of a party mandated by the managing institution, must be debited for this purpose and the transaction must be reported in the name of the institutional investor in terms of the requirements of the Reporting System.

(b) Authorised Dealers are not required to scrutinise the quarterly asset allocation reports of institutional investors wishing to obtain foreign exposure.

(c) Authorised Dealers are obliged to ensure that they are dealing with a legitimate institutional investor.

(d) Prior to the transfer of any funds abroad in respect of pension funds, life insurers, discretionary financial services providers registered with the Financial Surveillance Department and CIS managers, Authorised Dealers must obtain:

(aa) a registration certificate issued by the Financial Sector Conduct Authority; and

(bb) documentary evidence confirming the acceptance (not acknowledgement) of the latest quarterly asset allocation report of the institutional investor issued by the Financial Surveillance Department.

(e) In instances where Authorised Dealers are unable to confirm the registration of an institutional investor with the Financial Sector Conduct Authority and/or obtain proof of acceptance of the quarterly asset allocation report, the matter must be referred to the Financial Surveillance Department.

(f) Authorised Dealers must adhere to section A.3(E)(v)(b) of the Authorised Dealer Manual in respect of foreign exchange or hedging transactions with registered institutional investors domiciled and incorporated in Lesotho, eSwatini and/or Namibia.

(vii) Requirements for institutional investors

(a) Under no circumstances may retail clients have direct access to the foreign assets and all assets abroad must be registered in the name of either an offshore nominee company/custodian or the managing institution.

(b) As an exception to (a) above, discretionary foreign assets under the management of a discretionary financial services provider, where it is a legislative requirement, may be registered in the name of the underlying retail client as the beneficial owner, provided that:

(aa) the discretionary financial services provider is registered as the sole authorised intermediary or signatory; and

(bb) the discretionary financial services provider is the only party that has exclusive transactional authority over any foreign assets beneficially held in the name of the retail client.

(c) The offshore nominee company/custodian or the managing institution will hold the beneficial ownership on behalf of retail clients

resulting in the retail clients not being able to transfer ownership nor change registration of the foreign assets into their own names. It follows, therefore, that the only recourse that retail clients have to the managing institution is a domestic payment in Rand.

(d) Existing offshore assets may only be transferred between institutional investors, subject to the transferring institutional investor viewing:

(aa) a letter confirming the authority to transfer the offshore assets directly to the receiving institutional investor; and

(bb) a letter from the receiving institutional investor on its letterhead confirming that it:

(1) has proof of the acceptance by the Financial Surveillance Department of its latest quarterly asset allocation report;

(2) has sufficient capacity available in terms of its prudential limit; and

(3) will include the offshore assets to be received in its quarterly asset allocation report as retail assets and/or institutional assets.

(cc) Offshore assets in transit should be reported in the quarterly asset allocation report of the transferring institutional investor until such time the funds have been accepted by the receiving institutional investor.

(e) In the event of existing local assets being transferred between institutional investors, the local assets in transit should be reported in the quarterly asset allocation report of the transferring institutional investor until such time the funds have been accepted by the receiving institutional investor

(f) Where a managing institution manages funds on behalf of an originating institution, the managing institution may, in principle, invest the funds of the originating institution offshore, subject only to the mandate agreed with the originating institution or otherwise outlined in the mandate of a pooled investment product.

(g) Where funds of an originating institution are transferred between managing institutions, the originating institution should ensure that the funds in transit are still included in its quarterly asset allocation report whilst such funds are in the process of being transferred to the new managing institution.

(h) Institutional investors may participate in instruments issued by local entities in the offshore market whether priced in Rand or foreign currency on condition that the requirements of the Financial Sector Conduct Authority are complied with. These investments will be subject to the respective prudential limits.

(i) The originating institution retains the responsibility for ensuring that both its direct and indirect foreign investments remain within the prudential limit. To ensure the consistent classification of foreign exposure, institutional investors are required to report their assets on a 'look-through' basis.

(j) Institutional investors may not transfer Rand offshore. In order for an institutional investor to participate in Rand denominated instruments issued offshore, Rand would have to be converted to foreign currency and the resultant foreign currency be re-converted back to Rand in the offshore market to purchase the instrument.

(k) Institutional investors may not repatriate Rand to South Africa. Foreign currency proceeds in respect of prudential investments, i.e. capital and income, must be converted to Rand in South Africa with a local Authorised Dealer as the counterparty to the foreign exchange transaction.

(l) The initial conversion of Rand to foreign currency for the purchase of Rand denominated instruments issued offshore could be hedged locally, but the subsequent conversion back to Rand to purchase Rand denominated instruments issued offshore constitutes price risk and may be hedged either in the foreign market or on a South African exchange by utilising approved foreign referenced derivative products traded in Rand and issued by a South African exchange.

(m) Institutional investors are permitted to hedge the currency risk in terms of effecting prudential investments offshore (i.e. hedging the anticipated conversion of Rand into foreign currency for transfer offshore in terms of the provisions of section D.1 of the Authorised Dealer Manual). The currency risk of the prudential investment and the currency risk in respect of the repatriation of funds may be hedged. However, the price risk of the underlying prudential investment may be hedged either in the foreign market or on a South African exchange by utilising approved foreign referenced derivative products traded in Rand and issued by a South African exchange.

(n) Institutional investors must take cognisance that any position held as a result of active currency management transactions, not

resulting in the actual pay away or receipt of currency (i.e. the 'in-between trades') is regarded as foreign currency exposure and must accordingly be marked off against their respective prudential limits as well as being accounted for in the quarterly asset allocation reports.

(o) No transfers may be effected in respect of costs related to prudential investments, foreign held assets and liabilities by institutional investors, without prior reference to the Financial Surveillance Department.

(p) Institutional investors may open a CFC account to accept foreign currency deposits emanating from the disinvestment proceeds of foreign assets, pending the reinvestment of the funds offshore. See section E.(B) of the Authorised Dealer Manual.

(q) Refer to section A.3(E)(vi) of the Authorised Dealer Manual with regard to South African institutional investors entering into Rand transactions with residents of other CMA countries. Should an institutional investor exceed the respective prudential limit, no further funds may be transferred abroad or foreign classified investments made either directly or indirectly.

(viii) Reporting requirements for institutional investors

(a) Quarterly asset allocation reports

(aa) The quarterly asset allocation reports provide the primary mechanism for monitoring compliance with the respective prudential limits.

(bb) This supports a system of prudential regulation of foreign exposures and provides consistent, industry-wide statistics on the foreign diversification levels for all types of institutional investors.

(cc) All quarterly asset allocation reports must be submitted within two months of the end of the calendar quarter to the Financial Surveillance Department either through an Authorised Dealer or via bulk or single direct reporting, irrespective of whether the institutional investor has offshore exposure.

(dd) In reporting on asset allocations, the 'look-through' principle is applied to investments in collective investment schemes, life insurance policies and other investment products. This principle ensures the consistent classification of foreign exposure, whether acquired directly in foreign currency or indirectly through a domestic intermediary. For instance, a

pension fund holding foreign equities through a collective investment scheme registered locally should record such an investment as a Rand denominated foreign asset.

(ee) Managing institutions that manage assets on behalf of other institutional investors are required to report the asset allocation of such funds or policies to the originating institution as at the end of each calendar quarter within 15 working days of each calendar quarter end. This information is necessary to enable the originating institution to 'look-through' to the underlying assets in compiling its quarterly reports.

(ff) Managing institutions are required to provide, as part of its quarterly asset allocation report, an updated list of all their current institutional investors registered with the Financial Surveillance Department.

(gg) Life insurers, CIS managers and discretionary financial services providers, are required to submit quarterly asset allocation reports of their asset holdings according to the major asset classes as at the end of each calendar quarter. The quarterly report needs to reflect the allocation of retail assets and institutional assets under management, separately.

(hh) In the case of pension funds, the section 13B administrators, i.e. pension fund administrators as appointed in terms of section 13B of the Pension Funds Act, must submit quarterly asset allocation reports for each fund under their administration, unless otherwise instructed by the pension fund. The quarterly report relates to the allocation of total assets of the respective pension fund.

(ii) Section 13B administrators are required to submit via sarbportfolio@resbank.co.za within two months of the end of the calendar quarter to the Financial Surveillance Department, a list of all pension funds under administration, clearly indicating clients onboarded or where mandates have been terminated as well as the status of all other remaining pension funds under administration for the quarter under review.

(jj) In cases where the respective prudential limit has been exceeded, the institutional investor must as part of the quarterly asset allocation report provide:

(1) an explanation for the over-exposure; and

(2) a clear indication of how and by when they intend to

adjust the foreign exposure to fall within the applicable limit. See (vii)(p) above regarding further offshore investments if an institutional investor has exceeded the respective prudential limit.

(kk) An institutional investor has discharged its reporting obligation once the quarterly asset allocation report has been accepted (not acknowledged) by the Financial Surveillance Department.

(b) Audit reports

(aa) An institutional investor, with total portfolio assets at fair value in excess of R6 million, directly or indirectly, will also be required as part of its financial year-end audit to obtain an audit report from its external auditors assessing the institutional investor's quarterly asset allocation reports.

(bb) The audit reports must be submitted to the Financial Surveillance Department within a maximum period of six months after its financial year-end either through the institutional investor's Authorised Dealer or by sending an email to sarbportfolio@resbank.co.za.

(cc) The formats of the audit reports may be downloaded from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance>Institutional-Investors>audit report.

(ix) Reporting format

(a) To register for online submission of the quarterly asset allocation report, a request, on the official letterhead of the institutional investor or appointed section 13B administrator concerned, should be emailed to sarbportfolio@resbank.co.za, specifying the wording "Request for online registration" in the subject field. The completed quarterly asset allocation report must be attached.

(b) An email will be sent to the institutional investor concerned, confirming the registration on the Portfolio Investment Reporting System.

(c) Subsequently, the interactive web-page may be accessed from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance>Institutional-Investors>Online Systems>Electronic submission of quarterly asset allocation reports.

(d) In addition, technical specifications enabling section 13B

administrators to report electronically in bulk format have been developed. Such administrators wishing to make use of this facility must send an email to sarbportfolio@resbank.co.za, specifying the wording “Request for bulk reporting specifications” in the subject field.

(e) On receipt of the request in (d) above, the section 13B administrator will be assisted with the development of an interface to facilitate bulk reporting on behalf of pension funds.

(x) Right of inspection

(a) Authorised officials from the Financial Surveillance Department may at any time conduct an inspection at an institutional investor in the form and manner determined by the Financial Surveillance Department. The inspection will be conducted to establish an institutional investor’s compliance with the Regulations, requirements outlined in the Authorised Dealer Manual and/or specific authorities granted.

(xi) Compliance

(a) An institutional investor shall comply with the Regulations, requirements as outlined in the Authorised Dealer Manual, specific authorities granted as well as any other requirements or conditions as may be stipulated from time to time by the Financial Surveillance Department.

(b) Any deviation or non-compliance with (a) above may result in measures being taken by the Financial Surveillance Department as administrator of the exchange control system. These measures may consist of one or more of, inter alia, the following:

(aa) an official warning from the Financial Surveillance Department setting out the nature of the contravention and seeking the assurance from the institutional investor that the required remedial steps have been undertaken to ensure compliance as outlined in (a) above;

(bb) the temporary suspension of an institutional investor’s business activities to specific types of transactions;

(cc) encashment of foreign liquid assets and the repatriation thereof;

(dd) the repatriation of income and/or capital or the withdrawal of any authority granted by the Financial Surveillance Department.

(ee) the invoking of Regulation 18; and

(ff) the remedies provided for under Regulations 22A, 22B and 22C

(I) Macro-prudential limit for Authorised Dealers

(i) Macro-prudential limit

(a) The macro-prudential limit is only applicable to Authorised Dealers and restricted Authorised Dealers who are not branch operations of foreign institutions.

(b) Branches of foreign institutions operating as banks in South Africa are regulated by the Prudential Authority Department of the South African Reserve Bank in their entirety.

(c) Authorised Dealers may acquire direct and indirect foreign exposure up to a macro-prudential limit of 25 per cent of their total liabilities, excluding total shareholder's equity.

(d) It must be clearly understood that the methodology used by the Financial Surveillance Department in calculating the foreign exposure should not be confused with the directives issued by the Prudential Authority of the South African Reserve Bank.

(ii) African allowance

(a) Authorised Dealers are also allowed to invest an additional 5 per cent of their total liabilities, excluding total shareholder's equity, for expansion into Africa.

(b) The criteria applicable to institutional investors to determine whether an investment is classified as 'African', is similarly applicable to Authorised Dealers. See section H.(B)(ii)(b) of the Authorised Dealer Manual.

(iii) Foreign exposure

(a) The Financial Surveillance Department defines foreign exposure for macro-prudential limit purposes as all foreign assets held where such assets are foreign currency denominated, except for the dispensations in (iv)(b) below, as well as foreign assets denominated in Rand, e.g. Rand denominated instruments issued offshore and inward listed instruments with a foreign classification. Foreign exposure will therefore, inter alia, include the following:

(aa) assets outside of South Africa. Transactions with CMA countries should comply with section A.3(E) of the Authorised Dealer Manual.

(bb) claims on non-residents;

(cc) commodities;

(dd) deposits with foreign banks; and

(ee) inward listed debt and derivative instruments.

(b) Inward listed shares are excluded from the definition of foreign exposure. See section H.(A)(ix) of the Authorised Dealer Manual for the definition of inward listed shares.

(iv) Qualifying transactions

(a) The macro-prudential limit is applicable to transactions which, inter alia, include the following:

(aa) the underwriting of foreign currency denominated bonds issued by local entities as well as South African Government bonds;

(bb) the issuing of guarantees in favour of non-residents;

(cc) foreign currency lending to non-residents;

(dd) foreign portfolio investments in equity, debt and derivative instruments;

(ee) participation in foreign syndicated loans by Authorised Dealers. An Authorised Dealer may participate in foreign syndicated loans regardless of whether the borrower is a resident or non-resident, provided that the Authorised Dealer taking up the syndicated portion of the loan is within its macro-prudential foreign exposure limit;

(ff) any exposure to CMA countries. For the completion of the Macro-Prudential Foreign Exposure Limit Return CMA countries are treated as non-residents;

(gg) any lending to international headquarter companies as outlined in section B.2(D)(ix) of the Authorised Dealer Manual;

(hh) any lending to a DTMC as outlined in Section B.2(E) of the Authorised Dealer Manual; and

(ii) all foreign intra-group bank exposures should be included in the calculation of the macro-prudential limit, however, the netting of these foreign intra-group exposures is allowed as provided for in the Macro-Prudential Foreign Exposure Limit Return.

(b) The following transactions are excluded from the macro-prudential limit:

(aa) foreign exposures directly related to infrastructural development by the Authorised Dealer;

(bb) outward foreign direct investment by Authorised Dealers, including the acquisitions in terms of section 52 of the Banks Act, 1990, (Act No. 94 of 1990);

(cc) CFC account balances; and

(dd) foreign currency denominated facilities made available to South African companies in respect of:

(1) bona fide foreign direct investments;

(2) infrastructural development;

(3) trade finance facilities relating to the import and export of goods from South Africa;

(4) and working capital loan facilities to residents.

(v) Reporting requirements

(a) Macro-Prudential Foreign Exposure Limit Return

(aa) Authorised Dealers must complete and submit the Macro-Prudential Foreign Exposure Limit Return as at month end, under cover of an application, to the Financial Surveillance Department by the 20th working day of the following month.

(bb) The amounts reflected on the applicable Prudential Authority Department's BA Returns, under the specified line items, must be populated when completing the Macro-Prudential Foreign Exposure Limit Return.

(cc) The Macro-Prudential Foreign Exposure Limit Return must reflect both gross and net derivative figures, however, the gross derivative figures are only reported for disclosure

purposes and do not form part of the calculation of the macro-prudential limit.

(dd) The format of the Macro-Prudential Foreign Exposure Limit Return may be downloaded from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance>Authorised Dealers>Macro-Prudential Foreign Exposure Limit Return.

(b) Reporting on over-exposure position

(aa) In cases where the macro-prudential limit has been exceeded, an Authorised Dealer must provide:

(1) an explanation for the over-exposure; and

(2) a clear indication of how and by when it intends to adjust the foreign exposure to fall within the applicable limit.

(bb) Should an Authorised Dealer exceed the macro-prudential limit, no further direct and indirect foreign exposure may be acquired.

(c) Authorised specimen signatures list

(aa) On an annual basis (January of each year), a list of the names, title and the specimen signatures of officials authorised to sign the Macro-Prudential Foreign Exposure Limit Returns must be submitted to the Financial Surveillance Department.

(bb) The list should include the email addresses of at least two senior officials to whom urgent correspondence relating to the Macro-Prudential Foreign Exposure Limit Returns could be referred to, if needed.

(cc) Should there be any changes to the list of signatories, the Financial Surveillance Department must be timeously informed.

(d) Audit reports

(aa) Authorised Dealers are required, as part of their financial year end audit, to obtain an audit report from their external auditors verifying and confirming the amounts on the last submitted Macro-Prudential Foreign Exposure Limit Return at year end.

(bb) The audit report must be submitted to the Financial Surveillance Department, under cover of an application, within

a maximum period of six months after the financial year end.

(cc) The format of the audit report may be downloaded from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance>Authorised Dealers>Macro-Prudential Foreign Exposure Limit Return.

(J) Emigration

(i) Emigration requirements

(a) Private 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 must apply before departure to be accorded the facilities set out below.

(b) All emigration applications must be accompanied by a duly completed Form MP 336(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. It should be noted that all subsequent transfers by emigrants will depend on the current tax compliance status at the date and time the TCS PIN is used. A TCS PIN will be issued where the remaining value of the assets on emigration are above the limits outlined in subsection (ii)(a) below and a TCS PIN Good Standing will be issued where the remaining value of the assets on emigration are within the limits outlined in subsection (ii)(a) below.

(c) Where an emigrant's remaining assets are declared on the Form MP336(b), the Authorised Dealer under whose administration the emigrant's remaining assets are placed must notify all applicable parties of the emigrant's status and ensure that any proceeds derived from such assets are credited to the emigrant's capital account.

(d) Where securities and financial instruments listed on the JSE Limited have been dematerialised or immobilised in a Central Securities Depository via a Central Securities Depository Participant or a Central Depository via a Settlement Agent, the Authorised Dealer under whose administration the emigrant's remaining assets are held must, at all times, be able to demonstrate that such remaining assets are being held to the order of that Authorised Dealer.

(ii) Emigration allowances

(a) Private individuals 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:

(aa) Family units

(1) a foreign capital allowance of up to R20 million per calendar year after all local liabilities have been provided for; and

(2) in addition, a travel allowance applicable to each member of the family unit on the basis and subject to the prescribed limits.

(bb) A widow or widower or a single parent with accompanying dependant(s) may also be regarded as a family unit and be accorded the emigration allowance in (aa) above.

(cc) Single persons

(1) a foreign capital allowance of up to R10 million per calendar year after all local liabilities have been provided for; and

(b) in addition, a travel allowance on the basis of and subject to the prescribed limitThe travel allowance referred to in (a)(aa) and (cc) above may only be accorded once and not more than 60 days prior to departure.

(c) Foreign assets held by emigrants at the time of departure need not be deducted from the foreign capital allowance outlined above.

(d) Donations or gifts in excess of R100 000 received by an emigrant within three years or capital distributions from inter vivos trusts within three years prior to the date of emigration will be deducted from the aggregate of the assets before determining the amount to be accorded.

(e) Persons who have already emigrated but have not fully utilised the current authorised foreign capital allowance in terms of (a)(aa)(1) or (cc)(1) above may be accorded additional capital transfers, provided that the total amount availed of does not exceed the current annual limits.

(f) Quoted and/or unquoted securities may be exported as part of or in lieu of the foreign capital allowance outlined in (a)(aa) and (cc) above based on the market value thereof at the time of availing of the applicable allowance. The relevant securities must be restrictively endorsed.

(g) Authority may be granted to registered South African insurance companies 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:

(aa) they are satisfied that the insured has formally emigrated and has placed their emigration on record with the Financial Surveillance Department;

(bb) in total the surrender values of the policies do not exceed R2 000 in respect of any one family unit; and

(cc) the relative transfer will not result in the beneficiaries receiving, on aggregate, assets with a value exceeding that of the applicable foreign capital allowance.

(h) Authorised Dealers may similarly permit the transfer to former residents of South Africa who have taken up residence in countries outside the CMA of claims, surrenders or loans under life policies (excluding single-premium policies), provided that the amounts to be remitted do not exceed R2 000 in respect of any one family unit and they are satisfied that such transfers would not result in the beneficiaries receiving, on aggregate, assets with a value exceeding that of the applicable foreign capital allowance.

(iii) Export of assets by an emigrant

(a) The following assets may be exported by an emigrant under cover of a SARS Customs Declaration:

(b) 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.

(c) Applications for the export of the emigrants' household and personal effects, motor vehicles, caravans, trailers, motorcycles, stamps, coins and minted gold bars (excluding coins that are legal tender in South Africa) in excess of R2 million must be referred to the Financial Surveillance Department.

(iv) Short-term insurance claims

(a) Authorised Dealers may authorise the transfer of funds by registered South African insurance companies in respect of claims lodged by emigrants 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).

(v) Procedures for remaining assets

(a) 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:

(aa) 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, except as provided for in (cc) to (ee) below.

(bb) 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.

(cc) The proceeds of mortgage bonds and/or mortgage bond participations forming part of the emigrants' remaining assets may be reinvested in further bonds and/or participations.

(dd) All securities, quoted and unquoted, 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 not be released, except temporarily for switching purposes, without the specific authority of the Financial Surveillance Department. Unquoted securities, however, may only be switched into quoted securities. In the case of securities and financial instruments listed on the JSE Limited and dematerialised or immobilised in a Central Securities Depository via a Central Securities Depository Participant or in a Central Depository via a Settlement Agent, Authorised Dealers must at all times be able to demonstrate that such listed securities or financial instruments are being held to the order of that Authorised DealerSecurities of the nature referred to above must be restrictively endorsed in terms of section G.(F)(i)(a) of the Authorised Dealer Manual.

(ee) Any other CMA 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, 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 allowances stipulated in (ii)(a)(aa)(1) and (cc)(1) above.

(ff) Emigrants wishing to avail of the dispensation in (ee) above must furnish the Authorised Dealer with a TCS PIN issued letter to enable the Authorised Dealer to print a tax compliance status verification result obtained via the TCS system reflecting the compliance status of an emigrant including the value of the capital assets authorised for transfer by SARS. The aforementioned printout must accompany an application to the Financial Surveillance Department for consideration.

(gg) If approval has been granted by the Financial Surveillance Department, the Authorised Dealer must verify the taxpayer's tax compliance status via the TCS system prior to effecting any transfers. Authorised Dealers should note that the TCS PIN can expire and should the Authorised Dealers find that the TCS PIN has indeed expired, the Authorised Dealer must insist on a new TCS PIN to verify the taxpayer's tax compliance status. Authorised Dealers must retain the printout referred to in (hh) above for a period of five years for inspection purposes.

(hh) 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 allowances stipulated in (ii)(a)(aa)(1) and (cc)(1) above will not be exceeded.

(ii) Emigrants' assets that are under the administration of an Authorised Dealer in terms of the provisions of this section may be transferred to another Authorised Dealer with notification to the Financial Surveillance Department.

(vi) All previously undeclared assets, excluding where the assets represent an inheritance and/or insurance policies, must be referred to SARS for a tax directive. Subsequently, an application must be submitted to the Financial Surveillance Department accompanied by a printed tax compliance status verification result obtained via the TCS system reflecting the compliance status of the applicant(s) including the value of the capital assets declared to and approved for transfer by SARS.

(vii) Authority to Authorised Dealers

(a) Authorised Dealers may authorise the applicable foreign capital allowance on the basis indicated above, provided that:

(aa) in respect of single persons and family units emigrating the net value of the assets (excluding household and personal effects, caravans, motor vehicles, motor cycles and trailers to be exported) does not exceed the sum of R10 million in the case of a single person or R 20 million in the case of a family unit.

(bb) Where the aforementioned respective amounts are exceeded, an application supported by a completed Form MP 336(b) together with a printed tax compliance status verification result obtained via the TCS system reflecting the compliance status of the applicant(s) as well as a breakdown of the remaining capital assets held in South Africa must be submitted to the Financial Surveillance Department for consideration;

(cc) the statement of assets does not disclose any third party interest and/or any 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;

(dd) applicant has been resident in South Africa during the five years preceding the date of application;

(ee) Authorised Dealers are satisfied that the applicant is permanently relinquishing South African domicile;

(ff) Authorised Dealers are satisfied from the production of documentary evidence that the applicant has been given permission, where necessary, by the appropriate authorities to take up residence in the country to which the applicant is emigrating;

(gg) all applications submitted to Authorised Dealers where the net assets do not exceed the sum of R10 million in the case of a single person or R20 million in the case of a family unit are supported by a completed Form MP336(b), which must be retained by the branch concerned for a period of five years after all the remaining assets of an emigrant have been transferred abroad. Each branch should submit details of these emigrants to their head office;

(hh) all applications submitted to Authorised Dealers where the net assets do not exceed the sum of R10 million in the case of a single person, or R20 million in the case of a family unit, are supported by a belated completed Form MP336(b), where the applicant has resided permanently outside South Africa without placing their emigration formalities on record with the Financial Surveillance Department;

(ii) Authorised Dealers are furnished with a printed tax

compliance status verification result obtained via the TCS system reflecting the compliance status of the applicants including a breakdown of the remaining capital assets held in South Africa. However, the aforementioned requirement is not applicable in respect of applicant(s) who resided permanently outside South Africa for a period longer than five years and where they have no assets other than inheritance or insurance policies; and

(b) the applicant declares in writing to the Authorised Dealer that similar emigration formalities have not been recorded with another Authorised Dealer. The date from which such applicants will be regarded as emigrants from South Africa will be the date on which permanent residence was granted in their new country of residency. In the absence of such proof, Authorised Dealers must use the date on which the belated Form MP336(b) was signed by the applicant as the date of emigration.

(c) Each branch must retain such Forms MP 336(b) and a printed tax compliance status verification result obtained via the TCS system reflecting the compliance status of the applicants including a breakdown of the remaining capital assets held in South Africa for a period of five years after all the remaining assets of the emigrants have been transferred abroad and should submit details of these emigrants to their head office.

(d) All the information submitted in terms of (a)(ff) and (gg) above must be consolidated by the head office, under the name and branch code number of each individual branch for onward submission to the Financial Surveillance Department on a monthly basis. The following information should be included in the return: names, identity numbers, dates of departure, value of the remaining assets and foreign capital allowances accorded.

(viii) Returning emigrants

(a) Former residents who have been permanently resident outside the CMA for a period in excess of five years will, on completion of the necessary declaration and undertaking, be regarded by the Financial Surveillance Department as new immigrants to South Africa.

(b) The Authorised Dealers concerned must satisfy themselves from documentary evidence that such individuals had in fact been permanently resident outside the CMA for a period in excess of five years and are entitled to reside in South Africa.

(c) Should there be any emigrants' assets administered in terms of (v) above, such assets may not be released without prior written approval from the Financial Surveillance Department.

(K) Legacies and distributions from deceased estates and testamentary trusts

(i) Estates of residents

(a) 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 has been viewed.

(b) 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 have been viewed.

(c) Where the beneficiary is an emigrant, it would be incumbent upon Authorised Dealers to ensure that the emigrant has been formally designated as a non-resident before effecting transfers in terms of the aforegoing. Where no such record can be established, the matter must be referred to the Financial Surveillance Department.

(d) In all cases where such a resident 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.

(ii) Other assets inherited by non-residents

(a) Jewellery

(aa) The export of jewellery, including articles of gold jewellery, inherited by non-residents, including emigrants, from deceased estates in South Africa, may be exported under cover of the prescribed SARS Customs Declaration provided that documentary evidence is produced to the Authorised Dealer showing that the articles to be exported were, in fact, bequeathed to the beneficiary 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.

(b) Other effects

(aa) Other effects of a purely personal nature (e.g. clothing and household articles) may be exported under cover of the prescribed SARS Customs Declaration provided that the items to be exported emanate from a deceased estate and have been inherited by the beneficiary.

(c) The South African portion of estates of emigrants and non-residents

(aa) Cash bequests and the full cash proceeds of legacies and distributions from such estates, due to emigrants and non-residents, may be remitted abroad, provided that all legal requirements have been met (e.g. a resealed grant of probate) and the Liquidation and Distribution account bearing a Master of the High Court reference number has been viewed.

(bb) Other assets inherited by non-residents, including emigrants, may be dealt with in terms of (ii)(b) above.

(d) Capital distributions from local testamentary trusts

(aa) Capital distributions from local testamentary trusts due to non-residents, including emigrants 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, have been viewed.

(bb) Where the capital beneficiary is an emigrant, it would be incumbent upon Authorised Dealers to ensure that the emigrant has been formally designated as a non-resident before effecting transfers in terms of the aforegoing. Where no such record can be established, the matter must be referred to the Financial Surveillance Department.

(cc) Distributions as a result of the renunciation of a beneficiary's right to capital of a testamentary trust must be referred to the Financial Surveillance Department.

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B.3 Income transfers

(A) General

(i) Transfers in respect of dividends, profits and current income accruing to emigrants and non-residents of the CMA are subject to the conditions laid down in the following subsections. Authorised Dealers must ensure that the amounts to be transferred are legitimately due to the non-resident and/or emigrant and that suitable arrangements are made to meet all local liabilities. Income must, therefore, be interpreted as net income.

(ii) Transfers of income other than transfers from pensions and/or retirement annuities, excluding lump sum payments, may not be made to persons who, although temporarily resident outside the CMA, are regarded as residents of South Africa from a Financial Surveillance Department's point of view.

(B) Income due to emigrants

(i) For purposes of this subsection 'income' is defined hereunder and all applications for the transfer of any other form of income must be referred to the Financial Surveillance Department:

(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;

(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 and that the Authorised Dealer concerned is satisfied that the amount is reasonable in relation to the property in question;

(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 payout from a previous employer; and

(m) refunds in respect of income tax paid by emigrants on income earned subsequent to the date of emigration.

(ii) Only the Authorised Dealer under whose administration an emigrant's assets are held may allow the transfer of income earned in South Africa from the date of designation as an emigrant, subject to the conditions mentioned below, provided that it can be shown, 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.

(iii) Documentary evidence

(a) Forms to be completed

(aa) The forms MP1330(a), MP1331, MP1332 as mentioned below, are available on the South African Reserve Bank's website and are the only forms that will be accepted in support of an application.

(bb) The forms may be downloaded from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Publications and Notices>Forms>Category>Select: Financial surveillance and exchange controls>Year>Select: current year.

(b) Auditor's report and representation letter in respect of dividend/profit transfers to emigrants from a body corporate, foundation or partnership, excluding companies quoted on the

JSE Limited and from trusts

(aa) Auditor's report of factual findings given when the relevant information has been audited

(1) The format and wording for an unqualified report 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.

(bb) Limited assurance auditor's report given when the relevant information has not been audited and a review has been carried out

(1) The format and wording for an unqualified report may be accessed from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance>Authorised Dealers>Limited assurance auditor's report.

(cc) Representation letter

(1) The format and wording may be accessed from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance>Authorised Dealers>Representation letter.

(c) Auditor's report and representation letter for inter vivos trusts and trusts created in terms of a Last Will and Testament

(aa) Representation letter in respect of trusts (Form MP1330(a))

(1) Only the Form MP1330(a) published on the South African Reserve Bank's website is to be used.

(bb) Auditor's report of factual findings in respect of trusts, applicable when the annual financial statements have been audited (Form MP1331)

(1) Only the Form MP1331 published on the South African Reserve Bank's website is to be used.

(cc) Limited assurance auditor's report in respect of trusts, given when the annual financial statements have not been audited,

but a review has been carried out (Form MP1332)

(1) Only the Form MP1332 published on the South African Reserve Bank's website is to be used.

(dd) Interim representation letter in respect of trusts

(1) The format and wording may be accessed from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance>Authorised Dealers>Interim representation letter in respect of trusts.

(iv) Requirements applicable to income transfers to emigrants

(a) Dividends, profit or income distributions

(aa) Dividends, profit or income distributions received from non-quoted entities (excluding trusts) must be supported by an Auditor's Report and Representation Letter in the format referred to in (iii)(b)(aa) and (cc) or (b)(bb) and (cc) above.

(bb) Dividend distributions from quoted entities in favour of emigrant beneficiaries are transferable.

(b) Income from a trust created in terms of a Last Will and Testament

(aa) 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), Representation Letter (Form MP1330(a)) and financial statements.

(bb) 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. It should, however, be noted that a Form MP1330(a) will still have to be completed and submitted to an Authorised Dealer in support of a request for the transfer of income.

(cc) Such forms must be retained by the Authorised Dealer concerned for a period of five years for inspection purposes.

(dd) In the case of interim transfers of income from Will Trusts to emigrant beneficiaries, an Interim Representation Letter in the format referred to in (iii)(c)(dd) above may be used.

(ee) Authorised Dealers should, however, still be furnished with the documentation specified in (aa) above on an annual basis, which must be reconciled with the Interim Representation Letter.

(c) Income from an inter vivos trust

(aa) All initial requests for the transfer of income derived from inter vivos trusts to emigrant beneficiaries must be referred to the Financial Surveillance Department.

(bb) Fully motivated requests for the transfer of income derived from inter vivos trusts to an emigrant beneficiary must be accompanied by the financial statements of the trust, together with all the appropriate documentation, as well as Forms MP1330(a) and MP1331, based on the accompanying financial statements.

(cc) To enable the Financial Surveillance Department to initially formulate policy pertaining to a particular inter vivos trust, the following information or documentation must be provided:

(1) a copy of the original trust deed together with all subsequent amendments thereto;

(2) full names, domicile, percentage interest and, if applicable, details of their emigration from South Africa of all the beneficiaries of the trust;

(3) financial statements of the trust and the audited financial statements of all the underlying non-quoted investments which are 75 per cent or more directly or indirectly non-resident controlled (i.e. affected persons). It should be noted that for very old trusts this information is required for at least the last three financial years. For more recently established trusts, the information is required from creation to the latest available statements;

(4) full details of all funding (i.e. loans and donations made available to the trust since its inception). In this regard, the Financial Surveillance Department would require to know the extent of the loan(s) and/or donation(s), the date it was made, as well as the name(s) and domicile of the donor(s) or lender(s);

(5) full names, domicile and percentage interest of all the shareholders of the underlying non-quoted investments (i.e. affected persons) in which the trust had or still has

a direct or indirect interest. Where a shareholder or member is a private company or close corporation, the same breakdown of ownership is required. Where the shareholder is a trust, a copy of the trust deed, the full names of the capital and income beneficiaries, the domicile of such beneficiaries and the percentage of their interests are required;

(6) full details of all financing made available by third parties and/or the trust to the underlying non-quoted investments in which the trust had or still has a direct or indirect interest, in particular with reference to preference shares and loans. In this regard, the Financial Surveillance Department would similarly require to know the extent of financing, when such financing was made available and by whom. The information called for is in respect of the funding or financing irrespective of whether loans have been repaid and preference shares redeemed; and

(7) any further information the client or the Authorised Dealer may consider appropriate to enable the Financial Surveillance Department to reach a decision in the matter.

(dd) The information requested above is also required in respect of all capital distributions made to an emigrant within a period of three years prior to the date of emigration.

(ee) In all instances where consideration is being given to income transfers, cognisance is to be taken of any local financial assistance at the disposal of the trust and its underlying non-quoted company investments that are affected persons, as defined.

(ff) In determining whether a trust is an affected person, the Financial Surveillance Department deem a discretionary trust to have a 100 per cent non-resident shareholding by virtue of the discretionary powers of the trustees, unless the Financial Surveillance Department is otherwise satisfied by virtue of past and continuing distribution policies of the trustees.

(gg) Should permission for the initial transfer of income to a specific beneficiary be granted by the Financial Surveillance Department, the Authorised Dealer who obtained permission may on request by the trust effect payment of such income, as well as future annual or interim income, to the Authorised Dealer controlling the emigrant's remaining assets.

(hh) Requests for income transfers in respect of a specific financial year that exceed the previous year's transferable income by more than 30 per cent must, however, continue to be referred to the Financial Surveillance Department for approval.

(ii) Prior to authorising an income transfer, Authorised Dealers must satisfy themselves that the provisions of (mm) below are not applicable and that none of the under-mentioned occurred since the previous approval:

(1) an amendment to the trust deed;

(2) an additional donation received by the trust;

(3) a change in the accounting policy of the trust and/or its underlying investments;

(4) a change in the investments or assets of the trust (other than its quoted investments and/or deposits with financial institutions); or

(5) a non pro rata distribution of income where a beneficiary has a fixed interest.

(jj) Each request must be accompanied by a Form MP1330(a). Where the total net income earned by the trust exceeds R500 000 per annum, Forms MP1330(a) and MP1331 or MP1332 must accompany each request. In all instances the aforementioned forms must be retained by the Authorised Dealer concerned for a period of five years for inspection purposes.

(kk) In the case of interim transfers of income from inter vivos trusts to emigrant beneficiaries, an Interim Representation Letter in the format referred to in (iii)(c)(dd) above may be used.

(ll) Authorised Dealers should, however, still be furnished with the documentation specified in (bb) above on an annual basis, which must be reconciled with the Interim Representation Letter.

(mm) Where the auditor report has been qualified on either the financial statements or the Representation Letter, an application would have to be submitted to the Financial Surveillance Department. Such an application must be supported by the Auditor's Report, the Representation Letter and the financial statements covering the period in question

and be accompanied by additional clarifying information.

(d) Donations or gifts

(aa) All requests for the transfer of income derived from donations or gifts received by emigrants within three years, or capital distributions from inter vivos trusts within three years, prior to the date of emigration, must be referred to the Financial Surveillance Department.

(bb) Where any other restrictions on the transfer of income have been imposed by the Financial Surveillance Department, such restrictions must, of course, be complied with.

(C) Income due to non-residents

(i) Dividends, profit and income distributions

(a) Authorised Dealers may allow the transfer of dividends, profit and/or income distributions from quoted companies, non-quoted companies and other entities to non-residents in proportion to their percentage shareholding and/or ownership.

(b) Authorised Dealers may not allow the transfer from South Africa of any income earned outside South Africa, unless such funds represent the profits of wholly-owned subsidiaries or of branches of South African registered companies previously transferred to South Africa.

(ii) Interest

(a) Authorised Dealers may allow the transfer to non-residents of interest income on local debt securities owned by them, including interest-bearing deposits held by them, with local financial institutions in terms of the Authorised Dealer Manual or in terms of a specific authority granted by the Financial Surveillance Department, provided that documentary evidence of such indebtedness by a resident debtor is produced by the applicant. Rates of interest or discount rates earned by the non-resident investor or lender must equate to the money and/or capital market rates ruling for such debt securities at the time of purchase or investment or lending or as specifically approved by the Financial Surveillance Department.

(b) Authorised Dealers may allow the transfer to non-residents of interest income on loans granted to residents, provided that they are satisfied that the acceptance of the loan and the interest rate payable were approved by the Authorised Dealer or the Financial Surveillance Department.

(c) Authorised Dealers may allow the transfer to non-residents of interest income in respect of funds held in trust accounts against the production of documentary evidence confirming the amount involved.

(iii) Directors' fees

(a) Authorised Dealers may allow the transfer to non-residents of directors' fees, provided that:

(aa) the application is accompanied by a copy of the resolution of the board of directors of the remitting company confirming the amount to be paid to the beneficiary; and

(bb) it can be shown that the beneficiary is a non-resident.

(iv) Income from trusts

(a) Trusts created in terms of a Last Will and Testament

(aa) Authorised Dealers may allow the transfer of income to non-residents.

(b) Inter vivos trusts

(aa) Authorised Dealers may allow the transfer of income to non-residents. The provisions of subsection (B)(iv)(c) above will also apply.

(v) Rentals

(a) Income accruing to non-residents in the form of rental on their fixed property and income from rental pool agreements in which they have an interest may be remitted abroad against the production of a copy of the rental or rental pool agreement and provided that the client confirms to the Authorised Dealer that the amount is reasonable in relation to the value of the property in question.

(vi) Members' fees

(a) Authorised Dealers may allow the transfer of members' fees to non-resident members of close corporations, provided that:

(aa) the application is accompanied by a copy of the resolution of members of the remitting close corporation confirming the amount to be paid to the beneficiary; and

(bb) it can be shown that the beneficiary is a non-resident.

(D) Royalties and fees payable by South African resident entities to non-residents

(i) All royalties and fees payable to unrelated non-resident parties (e.g. the use of foreign owned technology, intellectual property and for services rendered by non-residents) are freely transferable abroad as outlined below:

(a) Payment for services rendered by non-residents, including the reimbursement of air fares, accommodation and other costs directly associated with the rendering of the services in question, not specifically dealt with elsewhere in the Authorised Dealer Manual, is transferable.

(b) Prior to effecting any payments, Authorised Dealers should, where applicable, view a copy of the agreement entered into. In all instances an invoice, verifying the purpose and the amount involved, from the relevant non-resident party should be presented.

(c) Where applicable, minimum payments, advance payments and down payments are permissible provided that the advance payments and down payments are recoupable from future royalties or fees payable.

(d) Payment of percentage based fees is permissible provided it is normal in the trade concerned.

(e) The applicant entity must present a letter in respect of royalty payments, on an annual basis, from their independent auditor, confirming the amount or percentage transferred over a 12-month period to the Authorised Dealer. This arrangement only applies where the applicant entity has made recurring payments in terms of a royalty agreement.

(ii) Requests by South African residents to make royalty and fee payments to related parties abroad should be submitted to the Financial Surveillance Department for consideration.

(iii) Authorised Dealers may, where applicable, approve the extension of related and/or unrelated party agreements authorised in (i) 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.

(E) Licence agreements involving the local manufacture of goods

(i) Royalties and fees payable to non-residents (related and unrelated parties) in respect of licence agreements involving the local manufacture of goods are subject to the following conditions:

(a) in respect of any new, renewed or amended licence agreement involving the local manufacture of goods, licensees should be informed that they must submit the royalty agreement in triplicate, supported by a statement furnishing the information called for in the questionnaire Form DTP 001, directly to the Technology Transfer (Royalties) Unit, Directorate of the Enterprise Organisation, Department of Trade and Industry, Private Bag X86, Pretoria, 0001 and not to the Financial Surveillance Department;

(b) the Authorised Dealer should be satisfied that the payments fall within the terms of the relative agreement and where applicable, comply with any conditions laid down in the authority granted by the Department of Trade and Industry;

(c) where applicable, minimum payments, advance payments and down payments are permissible provided that such payments are normal in the trade concerned. The advance payments and down payments must be recoupable from future royalties or fees payable;

(d) prior to effecting any payments, Authorised Dealers should view a copy of the approval letter from the Department of Trade and Industry. An invoice from the licensor, verifying the purpose and the amount involved, from the relevant non-resident party must also be presented for payment; and

(e) a letter from the independent auditors of the local applicant entity, confirming the amount or percentage transferred or to be transferred has been correctly calculated and is reasonable in the trade concerned, is submitted to the Authorised Dealer effecting the transfer, at least once per calendar year.

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B.4 Single discretionary allowance and other miscellaneous payments for private individuals

(A) Single discretionary allowance per calendar year

(i) Residents (natural persons) who are 18 years and older may be permitted to avail of a single discretionary allowance within an overall limit of R1 million per individual per calendar year without the requirement to obtain a TCS PIN letter, which may be used for any legal purpose abroad (including for investment purposes as well as the sending of gift parcels in lieu of cash excluding gold and jewellery). Authorised Dealers must ensure that the purpose for which the funds are used abroad must be reported under the correct category on the FinSurv Reporting System.

(ii) This dispensation may be utilised solely at the discretion of the resident without any documentary evidence having to be produced to the Authorised Dealer except for travel purposes outside the CMA where a passenger ticket needs to be produced.

(iii) The single discretionary allowance may be transferred abroad in Rand, however, transfers of a capital nature must be converted to foreign currency through an Authorised Dealer.

(iv) The resident individual must produce a valid green bar-coded South African identity document or Smart identity document card for identification purposes and the identity number is mandatory when reporting the transaction in terms of the Reporting System.

(v) The requirements of (ix) below as well as that of section A.3(B)(xxi) of the Authorised Dealer Manual must be complied with.

(vi) Authorised Dealers must ensure that the resident importers making import payments under this dispensation have a valid customs client number (CCN) issued by Customs which must be recorded on the Reporting System. The rules published under sections 59A and 120 of the Customs and Excise Act, 1964 (Act No. 91 of 1964), with regard to the use of the registration code number 70707070 must be adhered to.

(vii) The provisions of Regulation 12 must at all times be complied with by the importer.

(viii) Authorised Dealers should advise their clients that payments for current account transactions as provided for elsewhere in the Authorised Dealer Manual may be effected abroad against the presentation of documentary evidence and such payments will not be deducted from an individual's single discretionary allowance limit.

(ix) To ensure accurate and comprehensive reporting of all data on

cross-border transactions, Authorised Dealers must impress upon their clients the need to provide accurate information to enable the Authorised Dealers to correctly report the purpose of the transaction via the Reporting System. In addition, all transactions executed under this dispensation must be indicated in the subject field as 'SDA' with the description 'SDA' when reporting the transaction on the Reporting System.

(x) Authorised Dealers may allow resident individuals to transfer monetary gifts and loans within the single discretionary allowance limit of R1 million per applicant during a calendar year to non-resident individuals and to resident individuals who are overseas temporarily, excluding those residents who are abroad on holiday or business travel.

(xi) In addition to monetary gifts, 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.

(xii) The authority conveyed by this section may not be used to disguise transfers for other purposes for which foreign currency would be refused under the appropriate sections of the Authorised Dealer Manual.

(B) Travel allowances

(i) General

(a) There is no limit on the amount of Rand that may be spent on travelling within the CMA.

(b) Residents (natural persons) who are under the age of 18 years may not be accorded single discretionary allowance as outlined in subsection (A)(i) above, but may be accorded a travel allowance not exceeding an amount of R200 000 per calendar year.

(c) In addition, up to R25 000 in cash, per person, may be taken when proceeding on visits outside the CMA, to meet travellers' immediate needs on return to South Africa.

(d) When according travel allowances to persons who do not conduct accounts in their books, Authorised Dealers must record such persons' names, nationalities, residential addresses and telephone numbers to facilitate communication if needed.

(e) Visiting artistes, entertainers, sportspersons and other similar professionals may not be accorded the facilities outlined in this section of the Authorised Dealer Manual.

(ii) Travel allowance limits

(a) Foreign currency may be made available within the single discretionary allowance limit of R1 million per calendar year, to the eligible parties mentioned in (iv) below, provided that the requirements of (ix) below are complied with.

(b) Residents (natural persons) who are under the age of 18 years may be accorded a travel allowance not exceeding an amount of R200 000 per calendar year.

(iii) Travel allowance format

(a) Foreign currency in respect of a travel allowance may be provided in any authorised form. Authorised Dealers may, therefore, accord individuals with foreign currency banknotes and travellers cheques for travel purposes.

(b) The travel allowance may also be transferred abroad to the traveller's own bank account and/or spouse accounts, but not to the account of a third party.

(c) Minors travelling with parents may have their travel allowances transferred to their parents' bank account abroad.

(d) Credit and/or debit cards may be used to avail up to 100 per cent of the authorised prescribed or remaining travel allowance.

(iv) Eligible parties

(a) Residents

(aa) A travel allowance within the single discretionary allowance limit of R1 million per calendar year may be availed of by residents (natural persons) (excluding persons proceeding abroad to study) who are 18 years and older.

(bb) Residents (natural persons) who are under the age of 18 years may avail of a travel allowance not exceeding an amount of R200 000 per calendar year.

(b) Residents proceeding temporarily abroad

(aa) Residents proceeding abroad temporarily for reasons other than business or holiday travel may be granted a travel allowance within the single discretionary allowance limit of R1 million per calendar year.

(bb) See subsection (G) below.

(c) Students

(aa) Residents who are proceeding abroad for study purposes qualify for an allowance within the single discretionary allowance limit of R1 million.

(bb) Should a spouse accompany a student, an allowance within the single discretionary allowance limit of R1 million may also be accorded to the spouse.

(cc) See (v) below.

(d) Emigrants

(aa) An allowance within the single discretionary allowance limit of R1 million per calendar year may be availed of by emigrants on their permanent departure, provided that the requirements of section B.2(J) of the Authorised Dealer Manual have been complied with.

(e) Prospective immigrants and immigrants

(aa) Prospective immigrants and immigrants who have applied for, but who have not been granted permanent residence in South Africa may be granted a travel allowance within the single discretionary allowance limit of R1 million per calendar year.

(bb) The Authorised Dealer should view documentary evidence to ensure that the funds tendered in payment represent either savings from local earnings or the proceeds of foreign currency introduced to and exchanged in South Africa.

(cc) Before acceding to such requests, Authorised Dealers must satisfy themselves that such persons have declared their foreign assets and liabilities.

(dd) In the case of recent immigrants, Authorised Dealers must satisfy themselves that the requirements of section B.5(B) of the Authorised Dealer Manual have been met.

(f) Foreign nationals

(aa) Foreign nationals may be granted a travel allowance within the single discretionary allowance limit of R1 million per calendar year.

(bb) The Authorised Dealer should view documentary evidence to ensure that funds tendered in payment represent either

savings from local earnings or the proceeds of foreign currency introduced to and exchanged in South Africa.

(cc) In need, additional foreign currency may be provided to such persons in terms of the provisions of section B.5(A) of the Authorised Dealer Manual.

(g) Common Monetary Area residents

(aa) Residents of Lesotho, Namibia and eSwatini do not qualify to be accorded a travel allowance in South Africa except for the following:

(1) 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 permissible travel allowance for residents.

(2) Foreign currency may be sold to foreign diplomats, accredited foreign diplomatic staff as well as students with a valid student card from other CMA member countries while in South Africa.

(3) Residents of the other CMA countries, in South Africa, may be accorded foreign currency at local international airports to cover unforeseen incidental costs while in transit, subject to viewing a passenger ticket confirming a destination outside the CMA.

(4) See section A.3(E) of the Authorised Dealer Manual.

(v) Study allowances

(a) Residents who are proceeding abroad for study purposes qualify for an allowance within the single discretionary allowance limit of R1 million.

(b) Should a spouse accompany a student, an allowance within the single discretionary allowance limit of R1 million per calendar year may also be accorded to the spouse.

(c) Authorised Dealers may also authorise the export of 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.

(d) 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.

(e) 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.

(f) Any additional foreign exchange requirements must be referred to the Financial Surveillance Department.

(g) Prior to effecting the payment, Authorised Dealers must view:

(aa) documentary evidence from the institutions concerned confirming that the student has been enrolled for a course for the period claimed; and

(bb) evidence of the tuition and academic fees in the form of a letter or prospectus from the institution to be attended.

(h) The Authorised Dealers must, however, retain copies of the documents mentioned in (g) above, for a period of five years for inspection purposes.

(i) Should a student require a continuation of the above-mentioned transfers during a period following the initial 12 months, new documentary evidence complying with the requirements of (g) above must be submitted and further transfers may thereafter be permitted on the basis outlined in (a), (b) and (e) above.

(vi) Passenger tickets

(a) With the exception of (viii) below, foreign currency may only be provided to persons who have been issued with passenger tickets in their names in South Africa for journeys commencing from South Africa.

(b) Such tickets may be paid for in Rand, without any deduction from the travellers' travel allowances.

(c) Under no circumstances should this concession be regarded as being applicable to any arrangements whereby hotel accommodation and meals, overland, lake and river transportation and sightseeing tours are included in the price of a passenger ticket.

(d) In cases where a traveller who is in possession of a passenger ticket which has been purchased by a non-resident and issued abroad proceeds overseas, Authorised Dealers may issue foreign

currency within the single discretionary allowance limit of R1 million.

(e) The cost of a cruise on a cruise ship may specifically not be paid in Rand without any deduction from a travel allowance, unless the prior written approval of the Financial Surveillance Department has been obtained.

(f) Subject to the above-mentioned restrictions, the Financial Surveillance Department is also agreeable to a traveller who commences a journey from South Africa, paying in Rand without any deduction from the travel allowance for any additional cost of an extension or alteration to the journey, provided that the relative additional and/or alternative ticket is issued in South Africa by:

(aa) an airline office or a travel agent acting on behalf of an airline who has ownership of the original passenger ticket; or

(bb) an overseas agent or representative office abroad of a ticket issuer in South Africa, against a prepaid ticket advice arranged through a ticket issuer in South Africa in conjunction with the original passenger ticket.

(g) The arrangement in (f) above may also be regarded as being applicable in cases where travellers, having commenced the journey, wish to change from one means of transport to another in continuation of their journey.

(h) Residents embarking on coastal cruises in South African territorial waters and cruises to nowhere may be issued with foreign currency within the single discretionary allowance limit of R1 million per calendar year, subject to the following conditions:

(aa) foreign currency may only be provided to persons who have been issued with a valid passenger ticket in their name in South Africa for the above-mentioned journeys; and

(bb) the conditions of (ix) below should be adhered to.

(vii) Overland travel, charter flights, private aircraft and private yachts

(a) The arrangements in (vi) above do not apply to overland travellers, passengers on charter flights, persons flying private aircraft and persons sailing on private yachts who do not purchase tickets of the nature mentioned.

(b) Authorised Dealers may issue foreign currency within the single discretionary allowance of R1 million to such travellers.

(viii) Land arrangements

(a) Authorised Dealers may effect advance payments in respect of tours, hotel accommodation and vehicle rental at the request of resident travel agents and/or tour operators. In this regard, a facsimile copy of an overseas invoice or email message, plus a covering invoice from the local travel agent may be accepted. The invoice issued by the local travel agent must contain the name and residential address of the resident traveller, as well as the foreign and/or Rand amount.

(b) The eligible parties referred to in (iv) above who are not utilising the services of a travel agent or tour operator may be allowed to make advance payments or payments in full in respect of passenger tickets for travel between destinations outside of South Africa, tours, hotel accommodation, vehicle rental and to cover the cost of admission to drama, music, religious and other similar festivals and sports events, provided that documentary evidence from the foreign beneficiary is submitted in support of the request.

(c) The advance payments mentioned in (a) and (b) above, must be deducted from the permissible travel allowance.

(d) The eligible parties referred to in (iv) above who are representing e.g. a club, school, provincial or national team may, however, prior to the purchase of a passenger ticket, be allowed to make advance payments or payments in full in respect of tours, hotel accommodation, vehicle rental and to cover the cost of admission to drama, music, religious and similar festivals and sports events, provided that documentary evidence from the foreign beneficiary is submitted in support of the request.

(e) These payments may be made over and above the travel allowance granted to a eligible party referred to in (iv) above.

(f) Furthermore, when reporting the transaction via the Reporting System, the name of the school, club, provincial or national body must be indicated and not the name of the individual participant.

(g) Where a local tour wholesaler or operator receives Rand from a non-resident in respect of an inbound tour package, Authorised Dealers may permit the conversion of such Rand into foreign currency in the spot market to enable the tour wholesaler or operator to settle foreign expenses in respect of the non-CMA portion of the tour package.

(ix) Conditions applicable to the provision of foreign currency

(a) Regulation 2(4) and (5)

(aa) When providing foreign currency, Authorised Dealers must inform their clients that in terms of the provisions of Regulation 2(4), the foreign currency provided may only be used for the purpose for which it was made available. Authorised Dealers must also inform their clients that in terms of the provisions of Regulation 2(5), any unused foreign currency must be resold within 30 days to an Authorised Dealer.

(bb) Exemption from Regulations 2(5) and 6(1) is, however, granted to business travellers going abroad on recurring business trips. Where the next business trip is to occur within 90 days from returning from a previous business trip, any unutilised foreign currency may be retained by the traveller for use during the next business trip.

(x) Provision of foreign currency facilities

(a) Except for business travel and land arrangements, a prospective traveller may not be furnished with foreign currency more than 60 days prior to the date of departure.

(b) Prior to making such foreign currency available, Authorised Dealers must record on their integrated forms the following information:

(aa) the mode of transport, the reference number issued, the date of departure as well as the destination, where a passenger ticket is issued; and

(bb) the mode of transport, the date of departure, the destination as well as the name of the border post from where the traveller will exit South Africa, where a passenger ticket is not issued.

(c) Authorised Dealers must also obtain a written undertaking from the prospective traveller that the prospective traveller:

(aa) will indeed travel within 60 days from the date of the request to be accorded foreign currency;

(bb) will not purchase foreign currency from an Authorised Dealer in excess of the applicable limits;

(cc) will offer for resale all foreign currency accorded in the event of the trip being cancelled, to an Authorised Dealer and/or ADLA within 30 days of cancellation; and will offer for resale to an Authorised Dealer and/or ADLA any unused foreign

currency within 30 days of their return to South Africa. Also see (ix) above.

(xi) Term of travel allowance

(a) Travel allowances cover a calendar year. Any traveller who, on departure does not avail of the full travel allowance may be accorded the unused portion while abroad, provided that the overall limit is not exceeded and the allowance is availed of in the same calendar year.

(b) Any traveller not availing of the maximum allowance during a first journey may utilise the unused portion of the annual allowance for a subsequent journey at any time during the same calendar year.

(c) While advance payments in terms of (viii) above may, in need, be made in a preceding calendar year in respect of a journey commencing in the next calendar year, the amounts involved must be deducted from the single discretionary allowance applicable to the individual concerned in the following calendar year.

(d) A person who has not utilised any part of the travel allowance for a particular calendar year and who leaves on a journey which will extend into the next calendar year may be granted the full travel allowance facilities applicable to the calendar year in which the journey commences and the fact that the journey extends into the subsequent calendar year would not debar the granting of further travel allowance facilities for a separate subsequent journey in such calendar year. Also see (xii)(d) below regarding partially utilised facilities.

(e) A traveller whose visit extends from the current year into the following year may be accorded foreign currency in respect of the next year's facilities without returning to South Africa.

(xii) Unused foreign currency facilities

(a) Arrangements have been concluded with international carriers in terms of which refunds on unutilised tickets issued in South Africa will only be made in South Africa.

(b) In respect of a completely or partially unutilised passenger ticket, a refund will only be made by the carrier against production of a written statement from the Authorised Dealer concerned, confirming that all the foreign currency originally provided has been repurchased. All parties who issued the relative facilities may have to consult with one another.

(c) A traveller who made advance payments, but who did not travel or

who did not take up some bookings and who receives a refund, must offer the foreign currency for sale to an Authorised Dealer within 30 days.

(d) To the extent that foreign currency facilities previously granted have been repurchased, Authorised Dealers may subsequently furnish the equivalent Rand amount in foreign currency to that person for further travel in the same calendar year, together with any balance which may not have been previously availed of up to the single discretionary allowance limit of R1 million per calendar year.

(C) Omnibus travel facilities

(i) Authorised Dealers may approve in writing applications by entities for omnibus travel facilities up to R20 million per calendar year for allocation to the entities' representatives for business travel purposes only, at the discretion of the relevant entity.

(ii) At the beginning of each calendar year, the entity should apply in writing, on the entity's letterhead, to the Authorised Dealer for permission to avail of an omnibus travel facility. The following should be included in the letter:

(a) the total amount that is applied for in the calendar year;

(b) that the amount applied for is reasonable in relation to the business activities of the entity concerned;

(c) the purpose that the omnibus travel facility will be used for;

(d) the envisaged number of trips during the calendar year;

(e) the names, surnames and identity numbers of the administrative employees that are authorised by the entity to deal with the Authorised Dealer;

(f) the CIV documentation of the administrative employees that are authorised by the entity to deal with the Authorised Dealer; and

(g) the CIV documentation of the entity.

(iii) If the Authorised Dealer is satisfied that the entity has not applied for an omnibus travel facility with any other Authorised Dealer and the application letter and CIV documentation meet with the minimum requirements, a formal letter must be issued authorising the entity to avail of an omnibus travel facility of up to R20 million (for business travel, land arrangements and subsistence allowances only) during the calendar year.

(iv) On each occasion during the calendar year that the representatives of the entity have to travel, the Authorised Dealer must view an official letter from the entity concerned authorising the proposed business visits to be undertaken and explaining the purpose of the proposed business trips. The Authorised Dealer must also view the passenger ticket and passport of the prospective traveller(s).

(v) The Authorised Dealer must maintain a schedule of the visits undertaken by the representative(s), the amount of foreign currency accorded and subsequently resold on each occasion.

(vi) The above-mentioned documentation must be retained by the Authorised Dealer for a period of five years for inspection purposes.

(vii) The omnibus travel facility may only be used for business travel purposes and may not be deposited into any foreign bank account or be used to acquire goods and/or services abroad.

(viii) Applications for facilities in excess of R20 million must be submitted to the Financial Surveillance Department for consideration.

(ix) Representatives of entities availing of an omnibus travel facility also qualify in their personal capacity for a travel allowance within the single discretionary allowance limit of R1 million per calendar year.

(D) Temporary exportation of personal effects and jewellery

(i) All residents of the CMA may be required to present the prescribed SARS Customs Declaration on their departure from the CMA.

In the case of any jewellery to be temporarily exported, it must be fully manufactured and not crudely produced.

(ii) Should the insurance value of the goods taken by the traveller exceed R200 000, the prior written approval of the Financial Surveillance Department must be obtained.

(iii) The items to be exported must be returned to South Africa within a period of six months.

(iv) Where the items exported will not be returned to South Africa and where the insurance value thereof exceeds R50 000, an application must be submitted to the Financial Surveillance Department.

(E) Temporary exportation of caravans, horse-boxes, motor/sail boats, motor vehicles and trailers

(i) All residents of the CMA will be required to present the prescribed SARS Customs Declaration on their departure from the CMA.

(ii) A traveller is allowed to export a caravan, horse-box, motor/sail boat, motor vehicle and/or trailer, from South Africa temporarily when visiting SADC countries provided the items will be returned to South Africa within a period of six months.

(iii) Where the items exported will not be returned to South Africa and where the insurance value thereof exceeds R50 000, an application must be submitted to the Financial Surveillance Department.

(F) Temporary export of ocean-going yachts, luxury vehicles and aircraft

(i) Residents may be allowed to export ocean-going yachts, luxury vehicles and aircraft on a temporary basis, provided that the items will be returned to South Africa within a period of 24 months and that the insured value thereof does not exceed R10 million. An application in this regard must be lodged with an Authorised Dealer who should view the following documentation before granting the approval:

(a) owner's registration certificate;

(b) insurance documents verifying the insured value; and

(c) a sworn affidavit from the registered owner confirming that the item will be returned to South Africa within 24 months.

(ii) All residents of the CMA may be required to present the prescribed SARS Customs Declaration on their departure from the CMA.

(iii) A copy of the Authorised Dealer's approval must be retained by the traveller for presentation to the Customs authorities, if required, when the item(s) is returned to South Africa.

(iv) The Authorised Dealer concerned must also inform the applicable parties that while the item(s) may be chartered abroad, it may not be sold abroad without the prior written approval of the Financial Surveillance Department.

(v) Authorised Dealers may accord foreign currency to the crew members and/or any passengers proceeding abroad temporarily within the single discretionary allowance limit of R1 million.

(vi) No further foreign currency may be accorded to such persons without the prior written approval of the Financial Surveillance Department.

(G) Residents temporarily abroad

(i) Subsistence allowance

(a) Residents temporarily abroad, may avail of the R1 million single discretionary allowance and the R10 million foreign capital allowance per calendar year without returning to South Africa.

(b) The requirements under section B.2(B)(i) of the Authorised Dealer Manual and subsection (A) above must be adhered to.

(c) Where residents temporarily abroad make use of a general or special power of attorney to facilitate such transfers, a certified copy of the applicant's valid green barcoded identity document or Smart identity document card must accompany the power of attorney.

(d) In terms of the TCS system, a TCS PIN letter will be issued to the taxpayer that will contain the tax number and TCS PIN. Authorised Dealers must use the TCS PIN to verify the taxpayer's tax compliance status via SARS eFiling 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 to verify the taxpayer's tax compliance status. Also see section B.2(B)(i)(d) and/or (e) of the Authorised Dealer Manual.

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

(f) The annual limit of the R1 million single discretionary allowance and the R10 million foreign capital allowance dispensations may not be exceeded.

(g) Residents temporarily abroad may receive pension and retirement annuities as mentioned in section B.3(A)(ii) of the Authorised Dealer Manual as well as monetary gifts and loans as mentioned in subsection (A)(x) above, however, no other foreign currency may be availed of without the specific prior written approval of the Financial Surveillance Department.

(ii) Temporary exportation of personal effects and other assets

(a) 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

under cover of the prescribed SARS Customs Declaration.

(b) Farming implements for which the insurance value does not exceed R1 million may be exported against the prescribed SARS Customs Declaration by persons proceeding into African countries for farming purposes.

(H) Miscellaneous payments

(i) In addition to the single discretionary allowance dispensation, Authorised Dealers may approve applications by residents (natural persons) for the transfer abroad of payments inclusive of associated costs to non-residents in respect of legitimate foreign obligations against the presentation of documentary evidence such as an invoice, court order or agreement.

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B.5 Personal transfers by foreign nationals and immigrants

(A) Foreign nationals

(i) Foreign nationals temporarily in South Africa

(a) Foreign nationals (except those who are purely on a temporary visit) are required to declare on arrival in writing to an Authorised Dealer:

(aa) whether they are in possession of foreign assets and if so, give an undertaking to the effect that they will not place such assets at the disposal of a third party normally resident in South Africa; and

(bb) that they have not applied for similar facilities through another Authorised Dealer.

(b) On receipt of such completed declarations and undertakings, Authorised Dealers may permit such foreign nationals to:

(aa) conduct their banking on a resident basis;

(bb) 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.

(cc) conduct non-resident or foreign currency accounts in the books of an Authorised Dealer; and

(dd) transfer abroad funds accumulated during their stay in South Africa provided that:

(1) the foreign nationals can substantiate the source from which they have acquired such funds; and

(2) the value of such funds is reasonable in relation to their income generating activities in South Africa during the period.

(c) The completed declarations and undertakings must be retained by Authorised Dealers, after the permanent departure of such individuals, for a period of five years for inspection purposes.

(d) The dispensation in (b) above excludes:

(aa) single remittance transactions up to R5 000 per transaction where only the applicant’s proof of identity has to be viewed and retained by the Authorised Dealer concerned; and

(bb) transactions where a business relationship has been established, which are limited to R5 000 per transaction per day within a limit of R25 000 per applicant per calendar month. The Authorised Dealer must complete the relevant customer due diligence requirements by establishing and verifying the identity of the applicant in terms of section 21 of the FIC Act and obtaining the applicant's residential address information for reporting purposes.

(e) It should be noted that 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.

(f) Export of personal effects and other assets

(aa) 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 or the goods have been imported into South Africa. The individual must, in need, be able to substantiate the importation thereof by the production of documentary evidence.

(g) Capital transfers by foreign nationals

(aa) Authorised Dealers may permit foreign nationals to retransfer abroad capital that has been introduced into South Africa, provided that they can substantiate the original introduction of such funds.

(ii) Foreign crew members

(a) Foreign crew members and seamen of ships calling at South African ports may be permitted to remit savings from their earnings, but under no circumstances should foreign currency be made available against local payment in Rand.

(iii) Foreign visitors

(a) Foreign visitors (tourists) to South Africa may only be granted foreign currency if the Authorised Dealers are satisfied that the amount being applied for, is the unspent portion of the proceeds of foreign currency introduced to and exchanged in South Africa.

(b) Foreign visitors (tourists) to South Africa may introduce foreign currency in any amount and in any form (e.g. foreign bank notes, travellers cheques).

(c) Foreign visitors (tourists) may export any funds originating from instruments of foreign currency (including foreign bank notes) imported into South Africa on their arrival. No more than R25 000 may be exported in South African Reserve Bank notes.

(d) Credit and/or debit card issuers may issue such cards to foreign visitors, provided that the expenditure is settled in foreign currency or 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.

(B) Immigrants

(i) Taking up of permanent residence in South Africa

(a) On arrival in South Africa, immigrants are required to declare to an Authorised Dealer, whether they possess 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.

(b) Authorised Dealers are required to furnish the Financial Surveillance Department, on a monthly basis, with a consolidated return in which the following information is reflected under the name and branch code number of each individual branch in respect of such individuals:

(aa) full names of individuals, spouse and dependant(s);

(bb) dates of immigration (see (c) below); and

(cc) dates of birth.

(c) New immigrants must in due course provide the Authorised Dealer with documentary evidence substantiating that they have been granted permanent residence in South Africa. They should be regarded as immigrants with effect from the date of their arrival in South Africa.

(d) The relevant declaration and undertaking, as well as documentary evidence substantiating permanent residence must be retained by Authorised Dealers for a period of five years after the expiry of the concessionary period referred to in (ii)(b) below (i.e. for a period of ten years).

(ii) Concessions to immigrants

(a) Authorised Dealers should inform new immigrants who have completed the necessary declaration and undertaking that they may dispose of or otherwise invest their foreign assets, including foreign cash funds held by them, subsequent accruals, as well as foreign earned income without interference from the Financial Surveillance Department.

(b) Authorised Dealers may permit immigrants who have immigrated:

(aa) Within five years of the date of their immigration, to retransfer or re-export all own assets introduced or imported during the five year period, provided that:

(1) the necessary declarations and undertakings were completed on their arrival in South Africa as outlined in (i)(a) above; and

(2) they can substantiate the original introduction or importation of such assets.

(bb) Within five years of the date of their immigration, to transfer abroad their South African assets in excess of those referred to in (aa) above, provided that:

(1) the Authorised Dealer concerned is satisfied that the individuals will be leaving South Africa permanently; and

(2) 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.

(cc) After five years of the date of their immigration, immigrants will be regarded on departure as emigrants from South Africa and will qualify for the prescribed emigration facilities.

(dd) In addition to (cc) above, Authorised Dealers may permit such immigrants to retransfer or re-export all own assets introduced or imported, provided that:

(1) the necessary declarations and undertakings were completed on the arrival in South Africa; and

(2) they can substantiate the original introduction or importation of such assets.

(ee) 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.

(iii) Payments by immigrants

(a) Applications by immigrants may be approved by Authorised Dealers 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 declaration and undertaking 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.

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B.6 Embassies, high commissions, legations, consulates and official overseas representatives

(A) Embassies, high commissions, legations and consulates

(i) Embassies, high commissions, legations and consulates may conduct their banking on a resident basis.

(ii) Foreign currency for the transfer of official funds may be provided freely where the Authorised Dealer concerned is satisfied that the transaction is in the normal course of their business.

(B) Official overseas representatives

(i) Official foreign representatives should, for purposes of this section, be interpreted to include foreign diplomatic and trade representatives, as well as members of their staff.

(ii) The facilities outlined in (iii) and (iv) below should not be extended to South African nationals employed by, or as, official overseas representatives, but should be confined to those persons transferred to South Africa on a tour of duty.

(iii) While it is not intended to grant such persons any general exemption from the provisions of the Regulations, they may be permitted to retransfer funds introduced from abroad.

(iv) The export of personal and household goods and vehicles brought into the CMA by the official foreign representatives or purchased by them while in the CMA with funds introduced from abroad, is permissible under cover of the prescribed SARS Customs Declaration.

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B.7 Transfers to charitable, religious or educational bodies and to missionaries

(A) Charitable, religious or educational bodies

(i) Applications by charitable, religious or educational bodies registered as a Non-Profit Organisation under the Non-Profit Act, 1997 (Act No. 71 of 1997) with the Non-Profit Organisation Directorate of Social Development for the transfer of funds to such bodies in countries outside the CMA should be submitted to the Financial Surveillance Department with full particulars, unless Authorised Dealers have received special authority to approve, without further reference to the Financial Surveillance Department, applications made by specific organisations.

(B) Missionaries

(i) Authorised Dealers may allow religious bodies to transfer up to R20 000 per calendar year per beneficiary to missionaries, provided that a letter from a local registered religious body is viewed confirming that the person is a missionary abroad.

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B.8 Shipping companies, airline companies and travel agents

(A) General

(i) Shipping and airline companies, travel agents and tour operators may not without the permission of the Financial Surveillance Department engage in any foreign exchange transactions, except as provided for in (ii) and (iii) below.

(ii) Travel agents and tour operators, may effect transfers abroad on the basis indicated in subsection (C) below.

(iii) Shipping or airline companies may only effect bulk transfers abroad on the basis outlined in subsection (D) below.

(B) Sale of passenger tickets in the Republic of South Africa

(i) Except as provided for in (iii) below, no passenger ticket may be issued locally against payment in Rand for utilisation by a traveller whose journey does not commence from the CMA.

(ii) Journeys by non-residents

(a) Travel agents and tour operators may accept payment in foreign currency (either by foreign credit card or foreign currency payments to their bank account) by visitors to South Africa for passenger tickets for journeys from South Africa.

(b) Where payment is to be effected in Rand by such visitors, travel agents and tour operators must view documentary evidence that the relative funds represent the proceeds of foreign currency introduced into and exchanged in South Africa.

(c) Where a resident wishes to pay for the cost of a passenger ticket for a single or return journey commencing outside the CMA to the CMA, payment for such ticket may either be transferred directly to a foreign travel agent or to an overseas airline company. Alternatively, the ticket may be issued and paid for in Rand in South Africa or the ticket may be issued abroad against a prepaid ticket advice paid for in Rand.

(d) No payment may be accepted to cover the cost of the fare of a non-resident for travel between destinations outside South Africa without the specific prior written approval of the Financial Surveillance Department, unless payment is made in foreign currency or 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) Alternatively, travel agents and tour operators may arrange that passenger tickets be purchased via the Internet.

(iii) Sale of passenger tickets where travel agents and tour operators sell journeys to their clients for travel between destinations outside South Africa

(a) Travel agents and tour operators may accept payment in Rand to cover the cost of passenger tickets for travel between destinations outside South Africa in order to accommodate the following:

(aa) corporate clients and/or contractors who may need to second foreign based personnel, or outsourced persons, to fulfil contractual obligations;

(bb) local clients with a global presence who wish to attend conferences and/or training;

(cc) travel arranged by non-governmental organisations; and

(dd) leisure bookings by travel agents via the Internet.

(b) The passenger ticket may be issued and paid for in Rand in South Africa or the passenger ticket may be issued abroad against a prepaid ticket advice paid for in Rand.

(c) Alternatively, travel agents and tour operators may arrange that passenger tickets be purchased via the Internet.

(C) Foreign exchange disbursements on behalf of travellers

(i) Advance payments and/or payments in full

(a) Travel agents and tour operators who wish to effect advance payments or payments in full in respect of independent or package tours offered to the public must produce documentary evidence in the form of an invoice or pro forma invoice from the foreign payee confirming the amount payable.

(b) For purposes of this subsection, as well as (ii) below, a facsimile copy of an overseas invoice plus a covering invoice issued by a local travel agents and tour operators may be accepted when remitting funds abroad. The invoice issued by the local travel agents and tour operators must contain the name and residential address of the traveller, as well as the foreign currency and/or Rand amount.

(ii) Subsequent payments

(a) Subsequent payments by agents to cover any portion or the balance of a tour not transferred in (i) above may be permitted,

provided that documentary evidence in the form of an invoice or pro forma invoice from the foreign payee confirming the amount payable, is exhibited.

(b) Travel agents and tour operators must, at the time of selling a tour to an individual, in respect of advance payments, payments in full and/or subsequent payments, obtain a written declaration from the party concerned to the effect that such party is fully conversant with the conditions pertaining to the issue of a travel allowance and is aware that the cost of any land arrangements paid for locally and/or abroad is deductible from the travel allowance that forms part of the single discretionary allowance limit of R1 million per calendar year.

(iii) Cancellation fees

(a) In respect of cancellation fees due to foreign payees, Authorised Dealers may effect such payments, against the production of documentary evidence.

(iv) Refunds in respect of unutilised bookings

(a) Where payments for bookings abroad have been effected on behalf of a traveller who does not travel or does not utilise the bookings made and a refund is obtained, such reimbursement received by the agent from abroad must be retransferred to South Africa within 30 days.

(v) Incentive tours

(a) Travel agents and tour operators may effect payments, including advance payments, in respect of package tours offered by firms or companies to employees as part of an incentive scheme against the production of documentary evidence, as well as an official letter from the firm or company concerned.

(D) Bulk transfers by shipping and airline companies

(i) The local offices of foreign shipping and airline companies may be allowed to transfer surplus funds abroad periodically against submission to Authorised Dealers of supporting statements giving details of freight and passenger fare collections, less local disbursements in respect of their vessels or aircraft and administrative expenditure.

(ii) Authorised Dealers must, on an annual basis, call for an auditor's certificate confirming the items enumerated on the statements.

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B.9 Freight payments and ships disbursements

(A) Inward freight payable in foreign currencies

(i) 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.

(ii) Authorised Dealers may authorise payments in respect of freight on imports into South Africa on a Free on Board basis against documentary evidence of the commitment and confirmation that the relative goods have been or are to be imported on a Free on Board basis.

(B) Inward freight payable in Rand to non-South African shipping and airline companies

(i) Local agents and branches of non-South African carriers may accept Rand in respect of inward freight against documentary evidence of the commitment and confirmation that the relative goods have been or are to be imported on a Free on Board basis.

(ii) These funds will be eligible to meet local disbursements by the non-South African carriers concerned and any surplus may be transferred abroad.

(iii) In selling foreign currency to local agents and branches of non-South African carriers, Authorised Dealers should satisfy themselves, by calling for a letter from the company signed by a senior official enclosing a statement of the relative freight collections, less disbursements in South Africa, that the funds are eligible for transfer. Audited statements should be called for on an annual basis.

All transactions should be closely scrutinised to ensure that the requirements of the Financial Surveillance Department are fully complied with.

(C) Outward freight payable in foreign currencies

(i) Payment may be effected to non-resident owners or charterers of carrying vessels, aircraft or vehicles, provided that it can be satisfactorily established that the relative goods have either:

(a) been sold on a Cost and Freight or Cost Insurance and Freight basis against payment in foreign currency;

(b) been sold on a Cost and Freight or Cost Insurance and Freight basis against payment in 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;

(c) are being exported on consignment; or

(d) are exported under cover of the prescribed SARS Customs Declaration.

(D) Freight payments in foreign currency between residents

(i) Refer to section E.(B)(iv) of the Authorised Dealer Manual regarding exemptions granted in this regard.

(E) Freight documentation requirement

(i) Residents must ensure that original final freight invoices are presented to an Authorised Dealer for payment. Under no circumstances may Authorised Dealers accept quotes and/or pro-forma invoices presented for payment.

(F) Ships and aircraft disbursements

(i) Authorised Dealers may permit payments in respect of the normal operational commitments, including container leasing charges incurred outside South Africa by ships and aircraft owned or chartered by residents for commercial purposes. Documentary evidence of the charges involved should be submitted by the applicant.

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B.10 Insurance and pensions

(A) Introduction

(i) Only those branches of the Authorised Dealers referred to in subsection (K) below may effect payments in foreign currency in terms of this section of the Authorised Dealer Manual.

(ii) As a general approach residents are not allowed to enter into any insurance contracts with foreign insurance companies.

(iii) However, in view of the limited scope and extent of cover that is available in the South African insurance market, persons, local insurance companies, intermediaries or brokers and Lloyd's correspondents are in certain instances allowed to place the risks with foreign insurance companies and with Lloyd's of London.

(iv) The Long-term Insurance Act No. 52 of 1998 and the Short-term Insurance Act No. 53 of 1998, respectively, prohibit a person to induce or attempt to induce a person to enter into a contract of insurance with a person who is not registered as an insurer under these Acts. A foreign insurer or an intermediary (local or foreign) is therefore not allowed to market or sell a foreign insurer's product in South Africa unless registered as an insurer or reinsurer under these Acts.

(v) Authorised Dealers may approve applications by resident entities or individuals to make payments in the prescribed manner to non-resident parties in respect of insurance premiums in terms of the provisions set out in the subsections below.

(B) Glossary of terms

(i) Bordereau

(a) A bordereau is an invoice submitted by an insurer to a reinsurer setting out details of the reinsurance, that have been effected (i.e. name of the insured, period of insurance, sum insured, premium and reinsurer's proportion of sum insured and premium).

(ii) Brokers

(a) See intermediaries referred to in (vii) below.

(iii) Captive insurance company

(a) A captive insurance company is a company that is a subsidiary of a parent group and which is formed in order to insure or reinsure risks and exposures of that parent group only.

(b) Many large national and multinational organisations have the financial ability to self-insure.

(c) One of the recognised ways of effecting self-insurance is to set up a captive insurance subsidiary.

(iv) Direct insurers

(a) Direct insurers underwrite direct insurance and reinsurance business.

(v) Facultative reinsurance

(a) Facultative reinsurance is arranged on an ad hoc basis meaning that risks are offered one by one according to the particular requirements of the original insurer.

(b) All material facts relating to the risk must be disclosed to the reinsurer in the same way as a proposer must disclose material facts to an insurer.

(c) The reinsurer considers each case on its merits and is free to accept or to reject the offer.

(d) The important features of facultative reinsurance are freedom of choice by the original insurer and the reinsurer respectively to offer and to accept and disclosure of material facts relating to individual risks.

(vi) Insurer

(a) An insurer is one party to an insurance policy/contract, the other party being the policyholder.

(vii) Intermediaries

(a) Intermediaries are go-betweens between the insurer and the policyholder.

(b) An intermediary may represent an insurer and canvas for business on its behalf or may act for a client and purchase insurance on the client's behalf. The intermediary is remunerated by the insurer by way of commission.

(c) Where an intermediary acts on behalf of a client, the intermediary advises the client on the nature and extent of the cover the client should have and acts for the client in obtaining the best cover available in the market. The intermediary may not be tied to any particular insurer, but is, however, remunerated by way of

brokerage commission by the insurer with whom the intermediary places the business.

(viii) Life insurance business

(a) Life insurance business means the business of assuming insurance obligations under life policies which, inter alia, include endowment policies, retirement annuity policies, annuity policies.

(ix) Lloyd's correspondent

(a) Lloyd's correspondent means a person who is approved by Lloyd's and authorised by a Lloyd's broker or Lloyd's underwriter to act in South Africa as an agent for or on behalf of that broker or underwriter.

(x) Lloyd's of London

(a) Lloyd's underwriters are authorised, based on the conditions determined in the Short-term Insurance Act, to carry on short-term insurance business in South Africa. Lloyd's is not an insurance company. It is an association of individual underwriters who operate only from London, but who underwrites business introduced by brokers from all parts of the world.

(b) Lloyd's can also be referred to as a market place and a central organisation dealing with administration, documentation and accounting.

(c) The insurance is transacted by separate underwriting syndicates. These syndicates conduct independent operations in the acceptance of insurance business, although some specialise in particular classes of insurance and geographical areas. The syndicates vary in size and act on behalf of their individual members. Each member authorises the syndicate of which he is a member to underwrite premium income and accepts unlimited liability for the insurance underwritten. Insurance can only be placed with syndicates by registered, accredited Lloyd's brokers in London. These brokers have agents, known as 'Lloyd's correspondents' throughout the world.

(xi) Long-term Insurance Act

(a) Means the Long-term Insurance Act, 1998 (Act No. 52 of 1998).

(xii) Long-term insurance business

(a) Long-term insurance business means any assistance business, disability business, fund business, health business, life business or sinking fund business.

(b) Long-term insurance's main purposes are the offering of benefits on death or on a specific date (e.g. retirement) or the occurrence of an accident or on disablement. It helps the policyholder to make financial provision for the policyholder and the latter's dependants. It also provides a medium of saving and investment on a systematic long-term basis. Most policies combine these aspects of life insurance, the protection element and the savings element, to a greater or lesser degree.

(xiii) Marine insurance

(a) Marine insurance is a contract which indemnifies the insured against:

(aa) loss of or damage to any vessel;

(bb) loss of or damage to goods during their conveyance by water or while being stored, handled or treated in connection with such conveyance;

(cc) loss of freight for any such conveyance; and

(dd) any other loss in connection with any such vessel or goods or freight against which an insurance may lawfully be effected.

(b) Goods conveyed on land or air, although interstate, shall not be regarded as a marine policy and will therefore not qualify for purposes of subsection (E)(ii)(d) below.

(xiv) Professional reinsurers

(a) Professional reinsurers confine their activities to reinsurance and do not undertake direct underwriting.

(xv) Reinsurer

(a) A reinsurer is a party to an insurance contract with an insurer.

(b) Under a reinsurance contract the reinsurer accepts all or a certain share of the insurance or insurances underwritten by the insurer in return for a certain share of the premium. This enables an insurer to underwrite much larger amounts than it would be able to carry for its own account.

(xvi) Short-term Insurance Act

(a) Means the Short-term Insurance Act, 1998 (Act No. 53 of 1998).

(xvii) Short-term insurance business

(a) Short-term insurance embraces all insurance contracts other than long-term insurance contracts.

(b) The majority of short-term insurance contracts run for 12 months or less and may be renewed from one period to another.

(xviii) Sinking fund business

(a) Sinking fund business means the business of assuming obligations under sinking fund policies.

(xix) Sinking fund policy

(a) Sinking fund policy means a contract other than a life policy, in terms of which an insurer, in return for a premium, undertakes to provide one or more sums of money, on a fixed or determinable future date, as policy benefits.

(xx) Slip

(a) A slip means a memorandum from the insurer to the reinsurer setting out all salient details of the proposed transaction in terms of the original offer. If acceptable, the original (or master) slip is initialled and dated by the reinsurer and returned to the insurer.

(xxi) Treaty reinsurance

(a) Treaty reinsurance is a contract between an insurer and a reinsurer whereby the reinsurer is obliged to accept all items ceded to it in terms of the treaty over a specified period without any consideration being given to the merits of any individual risk.

(b) The important features of treaty reinsurance are an obligatory acceptance by the reinsurer of any risk falling within the ambit of the treaty and the absence of the necessity for the original insurer to disclose details of individual risks.

(C) Foreign currency payments in respect of short-term insurance premiums or reinsurance premiums

(i) In respect of insurance and reinsurance premiums placed abroad, Authorised Dealers may approve the following:

(a) Reinsurance by registered insurers (excluding registered captive insurance companies)

Applications by registered insurance companies to remit reinsurance premiums (excluding reinsurance premiums in respect

of currency risks), which request is accompanied by a letter signed by two senior officials of the company concerned, incorporating:

(aa) a declaration that the applicant is registered in terms of section 9 of the Short-term Insurance Act and has been issued with a registration certificate by the Registrar of Insurance; and

(bb) a declaration that the underlying transaction was entered into under an 'approved reinsurance policy' as defined in section 1(1) of the Short-term Insurance Act.

(b) Reinsurance through intermediaries, including Lloyd's correspondents approved by Lloyd's of London

Applications by intermediaries and Lloyd's correspondents to remit reinsurance premiums, excluding reinsurance premiums in respect of currency risks, provided that the request is accompanied by:

(aa) a letter signed by two senior officials of the intermediary/Lloyd's correspondent concerned incorporating the names of the registered insurance and reinsurance companies or Lloyd's brokers/Lloyd's underwriters on whose behalf the reinsurance is transacted; and

(bb) a declaration by the registered insurer(s) concerned that the transaction was entered into as an 'approved reinsurance policy' as defined in section 1(1) of the Short-term Insurance Act.

(c) Insurance (excluding reinsurance) through Lloyd's correspondents approved by Lloyd's of London

Applications by Lloyd's correspondents approved by Lloyd's of London to remit insurance premiums, excluding insurance premiums in respect of currency risks, in respect of:

(aa) cover placed in its entirety with Lloyd's underwriters through a broker at Lloyd's, which request must be accompanied by a letter signed by two senior officials of the Lloyd's correspondent concerned incorporating:

(1) a declaration that the Lloyd's correspondent is authorised to carry on such insurance business under the Short-term Insurance Act; and

(2) a declaration that the transaction was entered into with an underwriter at Lloyd's through a broker at Lloyd's.

(bb) cover placed through a broker at Lloyd's which is not in its

entirety underwritten by an underwriter at Lloyd's which request must be accompanied by:

(1) a letter signed by two senior officials of the Lloyd's correspondent declaring that the Lloyd's correspondent is authorised to carry on such insurance business under the Short-term Insurance Act; and

(2) a copy of a letter issued by the Registrar of Short-term Insurance, granting approval in terms of section 8(2)(d) of the Short-term Insurance Act to the intermediary/ Lloyd's correspondent to render services in relation to that short-term policy.

(ii) Documentary evidence

(a) All requests for the remittance of insurance premiums referred to above must also be supported by documentary evidence (e.g. a statement of account, bordereau, slip or debit note) reflecting details of the insurance transacted and premiums payable.

(iii) Transactions on open account

(a) In respect of the transactions outlined in (i) above, Authorised Dealers may approve requests by the entities mentioned to transact insurance business with foreign insurance companies, intermediaries and Lloyd's of London on open account with settlement of outstanding account balances taking place periodically.

(b) Authorised Dealers are required to view statements of account or bordereaux reflecting details of all debits and credits passed over such accounts before authorising payments in settlement thereof. Care must be exercised to ensure that only the following debits and credits are reflected:

(aa) premiums;
(bb) taxes;
(cc) commissions;
(dd) brokerage;
(ee) losses;
(ff) claims;
(gg) premium reserves retained;
(hh) premium reserves released;
(ii) loss reserves retained;
(jj) loss reserves released;
(kk) premium adjustments including refunds; and
(ll) interest on reserves.

(c) No other credits and debits (e.g. directors' fees, travel expenses, administrative fees, dividends.) may be passed over these accounts.

(iv) Applications to the Financial Sector Conduct Authority

(a) All applications to remit insurance premiums, excluding insurance premiums in respect of currency risks, not covered in (i) above, must be submitted timeously by the Authorised Dealer to the Financial Sector Conduct Authority, P O Box 35655, Menlo Park, Pretoria, 0102.

(b) Such applications must be accompanied by a duly completed Form MPI and documentary evidence (e.g. invoice, a statement of account).

(c) The Financial Sector Conduct Authority will communicate their response to the Authorised Dealer concerned who may effect transfer against suitable documentary evidence, provided that the request was recommended by the aforementioned board.

(v) Applications to the Financial Surveillance Department

(a) All applications to remit reinsurance and/or insurance premiums abroad in respect of currency risks, must be submitted to the Financial Surveillance Department for consideration.

(vi) Registered captive insurance companies

(a) Offshore captive insurance companies

(aa) The establishment of captive insurance companies abroad requires the prior written approval of the Financial Surveillance Department.

(bb) Permission is also required to remit insurance and reinsurance premiums to such captives. Any such request must contain full particulars of the insurance and reinsurance to be transacted and be accompanied by a duly completed Form MPI and documentary evidence (e.g. invoice, a statement of account).

(b) Onshore captive insurance companies

(aa) Applications by onshore captive insurance companies to remit premiums in respect of the placement of reinsurance abroad, must be submitted to the Financial Surveillance Department.

(bb) Such applications must contain full particulars of the reinsurance to be transacted and documentary evidence (such as statement of account, bordereau, slip or debit note).

(vii) Refund of pro rata worldwide corporate group insurance

(a) Where the group or global insurance cover is taken out by the non-resident holding or parent company, Authorised Dealers may transfer the pro rata premium against the production of documentary evidence confirming the local company's portion.

(b) Authorised Dealers should on a quarterly basis and in the prescribed format report via email (INS.GlobalPolicy@FSB.co.za and copy FNS-FSBINS@resbank.co.za) directly to the Insurance Division of the Financial Sector Conduct Authority all refunds transferred in terms of the above-mentioned authority.

(D) General

(i) Insurance Acts

(a) It should be drawn to the attention of registered South African insurance companies and brokers, underwriters and Lloyd's correspondents approved by Lloyd's of London that the Authorised Dealer Manual does not absolve them from complying with all the relevant sections of the Long-term Insurance Act and the Short-term Insurance Act.

(ii) Branch settlements

(a) The registration of branches outside the CMA requires the prior written approval of the Financial Surveillance Department and notification to the Financial Sector Conduct Authority.

(b) Authorised Dealers may approve requests by registered local insurance companies to settle claims in South Africa under policies written by their authorised branches or agents outside South Africa and vice versa.

(c) It is a condition that any foreign currency surplus to a branch's requirements must be repatriated periodically (at least on an annual basis) in terms of the provisions of Regulation 6.

(d) All South African insurance companies with branches or intermediaries outside the CMA must submit a statement to the Financial Surveillance Department by 31 March each year, giving particulars of their foreign currency assets and liabilities as at 31 December of the previous year.

(iii) Foreign currency working balances

(a) Applications by South African insurance companies registered in terms of section 9 of the Short-term Insurance Act who wish to retain foreign currency premiums and any other foreign currency that accrues to them for settlement of claims under policies issued in foreign currency must be submitted to the Financial Surveillance Department. Such applications must, inter alia, also incorporate the following information:

(aa) the amount of the contingent liabilities (unexpired premiums) of the insurer or reinsurer concerned under unmatured foreign currency policies, calculated in accordance with the provisions of paragraph 4 of Board Notice 169 of 2011 on Prescribed requirements for the calculation of the values of the assets, liabilities and capital adequacy requirement of short-term insurers issued under item 2 of Part 1 of Schedule 2 of the Short-term Insurance Act;

(bb) the amount, as estimated by the insurer or reinsurer, of the liabilities in respect of claims under foreign currency policies which had been intimated to the insurer or reinsurer but which had not been paid at any given date; and

(cc) the amount, as estimated in accordance with the method prescribed by the applicable authority of the insurer's or reinsurer's liabilities relating to claims under foreign currency policies which had arisen but had not been intimated at any given date.

(b) The information in (a) above would be used by the Financial Surveillance Department as a guideline only in determining the extent of foreign currency working balances that may be retained.

(c) The following would be conditions of any approval granted by the Financial Surveillance Department:

(aa) the foreign currency working balances must be administered by local Authorised Dealers in a CFC account opened in the name of their client;

(bb) the CFC accounts must form part of the Authorised Dealer's nostro accounts administration and accordingly the client may not operate thereon other than through and with the full cognisance and approval of the Authorised Dealer concerned; and

(cc) any foreign currency surplus not required to meet estimated future foreign currency commitments must be converted to Rand periodically (at least on an annual basis).

(iv) Premiums

(a) Premiums on existing long-term foreign currency insurance policies and pension fund contributions due by immigrants may be dealt with in terms of section B.5(B)(iii)(a) of the Authorised Dealer Manual.

(b) Premiums on insurance policies and pension fund contributions due by nationals of other countries who are temporarily resident in South Africa on secondment to a local firm or who were recruited by a South African firm under a definite contract and who are still so employed may be dealt with in terms of section B.5(A) of the Authorised Dealer Manual.

(E) Short-term insurance by residents

(i) In general, short-term insurance policies may be issued by registered South African insurance companies in Rand only, except as provided for in (ii) below.

(ii) Insurance policies may be issued in foreign currency to cover risks incidental to:

(a) aviation (hull only);

(b) assets held outside the CMA with approval;

(c) foreign travel;

(d) marine and war, general average, salvage or other third-party liability under marine insurance and reinsurance (hull and cargo); and

(e) imports and exports of physical goods (provided that the contract of sale is denominated in foreign currency and the resident party carries the risk).

(iii) Premiums may, however, only be paid in Rand and the insurance company concerned may apply to the Financial Surveillance Department for permission to convert such premiums into foreign currency on the basis outlined in subsection (D)(iv) above.

(iv) Short-term insurance policies issued by tribunalised agents on behalf of Lloyd's of London may be issued in Rand or in any foreign currency.

(v) In paying or arranging the payment of foreign currency claims to residents, insurance companies and intermediaries referred to above must ensure that the funds are converted to Rand in terms of the provisions of Regulation 6.

(vi) Should it be required to dispose of the foreign currency in some other way, an application must be submitted to the Financial Surveillance Department. Pending the submission of an application, funds not exceeding the equivalent of R5 000 per person may be made available in foreign currency to cover the cost of replacement articles and expenses incidental to claims in respect of policies issued to cover foreign travel risks.

(vii) Where insurance policies have been issued to exporters of goods sold on Cost Insurance and Freight terms, funds due by registered South African insurance companies in settlement of claims lodged by the buyers may be transferred abroad or, if authorised, released by the Authorised Dealer concerned from a CFC account.

(F) Short-term insurance by non-residents

(i) Short-term insurance policies may be issued to non-residents by registered South African insurance companies and intermediaries in Rand or in any foreign currency. Authorised Dealers must, however, satisfy themselves that premiums in respect thereof are received in South Africa and converted to Rand or, if authorised, credited to a CFC account as referred to in subsection (D)(iv) above.

(ii) Any funds due by registered South African insurance companies in settlement of claims lodged by non-residents may be transferred abroad or, if authorised, released by the Authorised Dealer concerned from a CFC account.

(iii) Losses payable and account balances due by registered South African insurance companies on facultative and treaty reinsurance may also be transferred abroad or, if authorised, released by the Authorised Dealer concerned from a CFC account, provided that the request is supported by a statement of account reflecting details of the losses or account balances to be settled. Care must be exercised to ensure that only debits and credits referred to in subsection (C)(iii) above are reflected on the accounts before authorising settlement of outstanding account balances.

(G) Foreign currency payment of premiums in respect of the reinsurance of long-term insurance risks

(i) Authorised Dealers may approve applications by registered long-term insurance companies to remit long-term reinsurance premiums in respect of mortality and morbidity risks only, provided that the request is accompanied by a declaration signed by two senior officials of the company concerned confirming:

(a) the contract of reinsurance was entered into under an ‘approved reinsurance policy’ as defined in Schedule 3 to the Long-term Insurance Act and that the approval of the Registrar of Long-term

Insurance has been obtained in terms of paragraph (a)(i)(bb) of the said definition;

(b) the name of the reinsurer with whom the reinsurance contract has been entered into; and

(c) the applicant is registered in terms of section 9 of the Long-term Insurance Act and has been issued with a registration certificate by the Registrar of Long-term Insurance.

(ii) Authorised Dealers must forward a copy of the approval granted to The Registrar of Long-term Insurance, P O Box 35655, Menlo Park, Pretoria, 0102, for their information.

(H) Long-term insurance by residents

(i) Long-term insurance policies may be issued by registered South African insurance companies or through local intermediaries in Rand only.

(ii) Foreign currency policies entered into in Sterling prior to 1958-05-08 may be continued and foreign currency made available against documentary evidence (e.g. premium renewal notice) for the payment of premiums.

(iii) The proceeds of claims on existing foreign currency policies received abroad by residents from non-South African insurers must be converted to Rand in terms of the provisions of Regulation 6.

(iv) In paying or arranging the payment of foreign currency claims in respect of those policies issued in Sterling prior to 1958-05-08 to residents of South Africa, registered South African insurance companies must ensure that the funds are converted to Rand in terms of the provisions of Regulation 6.

(v) Except as provided for in section B.2(J)(ii)(g) of the Authorised Dealer Manual, no insurance may be switched from Rand to foreign currency or assigned to a non-resident without the prior written approval of the Financial Surveillance Department and the relevant insurance authority.

(I) Long-term insurance by non-residents

(i) Currency in which policies may be issued

(a) Long-term insurance policies may be issued to non-residents by registered South African insurance companies or through local intermediaries and agents either in Rand or in any foreign currency.

(b) The arrangement in (a) above also applies to emigrants in respect of new policies issued after date of emigration.

(c) Authorised Dealers must, however, satisfy themselves that the foreign currency premiums in respect of policies issued to non-residents and to emigrants are received in South Africa in foreign currency or in 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.

(d) Funds due to non-residents by registered South African insurance companies in settlement of claims and in respect of surrenders and loans granted may be transferred abroad. Foreign currency premiums received in this regard must be converted to Rand.

(ii) Medical examination expenses of existing and prospective policy holders

(a) Authorised Dealers may approve applications by registered South African insurance companies and intermediaries to remit funds for the purpose stated, provided that the request is supported by the account from the non-resident medical practitioner, addressed to the applicant company or firm.

(J) Pension and provident schemes

(i) Retention of contributions in foreign currency

(a) Where registered South African pension or provident schemes include non-resident members, the prior written approval of the Financial Surveillance Department must be obtained for the retention of foreign currency contributions to cover the scheme's foreign currency liabilities.

(b) All schemes referred to in (a) above that have been authorised to retain contributions in foreign currency (see CFC accounts referred to in subsection (D)(iii) above) must submit a statement to the Financial Surveillance Department by 31 March each year, giving particulars of their foreign currency balances and foreign currency liabilities as at 31 December of the previous year.

(ii) Pension commutations

(a) Emigrants

(aa) Authorised Dealers may approve the transfer of lump sum commutations abroad, provided that the total amount in question does not exceed R10 000 per emigrant.

(bb) Any lump sum commutation falling outside the limit referred to above must be dealt with in terms of section B.2(J) of the Authorised Dealer Manual.

(b) Foreign nationals

(aa) Authorised Dealers may approve the transfer of lump sum commutations as well as monthly pensions abroad, provided that they are satisfied that the provisions of section B.5(A) of the Authorised Dealer Manual have been complied with.

(c) Mine labourers

(aa) 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.

(d) Death benefits

(aa) Proceeds from registered South African pension and provident schemes as well as insurance policies (annuity, endowment and life) due to non-residents, including emigrants, who are nominated beneficiaries upon the demise of the policy holder may be transferred abroad on presentation of a Death Certificate as well as documentary evidence from the institution concerned reflecting the full names of the beneficiary and the amount due to the beneficiary.

(bb) Where the beneficiary is an emigrant, it is incumbent upon Authorised Dealers to ensure that the emigrant has been formally designated as a non-resident before effecting transfers in terms of the aforegoing. Where no such record can be established, the matter must be referred to the Financial Surveillance Department.

(e) Non-residents

(aa) In the case of non-residents, including non-resident employees of South African entities who contributed to a South African pension or provident scheme by transferring funds to South Africa, Authorised Dealers may approve the transfer abroad of lump sum commutations, as well as monthly pensions.

(iii) Bonuses and surplus pension distributions

(a) Emigrants, non-residents and foreign nationals

Authorised Dealers may approve the transfer abroad of bonuses and/or surplus pension distributions paid by registered pension funds.

(K) Nominated branches

The following branches of Authorised Dealers are authorised to transact insurance business and to effect payments in foreign currency:

Authorised Dealer	Authorised branch
Absa Bank Limited	Brandwag Branch, Bloemfontein
	Brooklyn Branch, Pretoria
	Eastgate Branch, Johannesburg
	Forex Operations, Cape Town
	Forex Operations, Durban
	Forex Operations, Head Office
	Forex Operations, Johannesburg
	Forex Operations, Port Elizabeth
	Forex Operations, Pretoria
	Gateway Mall Branch, Umhlanga Ridge
	Newton Park Branch, Port Elizabeth
	Randburg Branch, Johannesburg
	Roggebaai Branch, Cape Town
	Waterfall Mall Branch, Rustenburg
Bank of China	Johannesburg Branch
Bank of Taiwan South Africa Branch	Johannesburg
Bidvest Bank Limited	Head Office, Braamfontein
BNP Paribas SA – South Africa Branch	Johannesburg
Citibank, N.A., South Africa	Johannesburg
FirstRand Bank Limited	FirstRand Currency and Exchanges Department

Authorised Dealer	Authorised branch
	Forex Product House-Retail
	Forex Product House-Bloemfontein
	Forex Product House-Eastern Cape
	Forex Product House-Gauteng
	Forex Product House-KwaZulu-Natal
	Forex Product House-Western Cape
Grobank Limited	International Banking Division Head Office
HSBC Bank plc – Johannesburg Branch	Johannesburg Branch
Investec Bank Limited	Head Office, Sandton
Mercantile Bank Limited	Cape Town Branch
	Durban Branch
	Treasury Operations, Sandton
Nedbank Limited	Cape Town Global Business Centre
	Durban Global Business Centre
	Gauteng Global Business Operations
	Paarl Global Business Centre
	Port Elizabeth Global Business Centre
Sasfin Bank Limited	Head Office, Johannesburg
Société Générale	Johannesburg Branch
Standard Chartered Bank – Johannesburg Branch	Johannesburg
The Standard Bank of South Africa Limited	Non Resident Centre, Johannesburg
	TPS Operations SA, Johannesburg

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B.11 Bank notes

(A) General

(i) Regulation 3(1) prohibits the exportation and importation of Rand notes unless the prior written approval of the Treasury has been obtained. The export of foreign bank notes is similarly restricted.

(ii) As an exception Authorised Dealers may allow the exportation of Rand notes and foreign bank notes subject to the conditions set out hereunder.

(iii) It should be noted that various foreign countries have imposed restrictions on the amount of currency that travellers to such countries may import in the form of bank notes and any excess of the applicable limits may be subject to confiscation by the authorities of those countries.

(B) Residents and non-residents

(i) Residents including foreign nationals, non-residents and visitors are permitted to export up to R25 000 in notes when leaving South Africa. This allowance for residents and foreign nationals is in addition to the normal travel allowance.

(ii) The parties mentioned in (i) above are also not permitted to import Rand notes or any bank notes of other member countries of the CMA in excess of a total value of R25 000 per person.

(iii) Authorised Dealers should also take note of the provisions of section F.1(B) of the Authorised Dealer Manual regarding the export and repatriation of Rand notes.

(C) Migrant labourers returning to neighbouring countries

(i) The R25 000 note restriction does not apply to migrant labourers returning to neighbouring countries who are permitted in terms of existing arrangements with Customs, a division of SARS, to take with them reasonable amounts in the form of Rand notes representing their earnings in South Africa.

(D) Foreign bank notes

(i) Authorised Dealers who wish to import bulk supplies of foreign bank notes for their normal requirements must refer the matter to the Financial Surveillance Department.

(ii) Requests for the importation of used foreign bank notes must be accompanied by duly completed Forms IE 230 (including a VAT certificate) and IE 461. The forms may be downloaded from ITAC's

website: www.itac.org.za, by following the links: Legislation and documents>Application forms>Select: Import>Application to register as an importer or change of current information (Form IE 230)>Application for import facilities (Form IE 461).

(iii) There are no restrictions on the acquisition by Authorised Dealers of foreign bank notes from bona fide visitors to South Africa and returning residents. Authorised Dealers should, however, bear in mind that various foreign countries have imposed restrictions on the amount in bank notes which may be exported from and repatriated to their respective countries.

(iv) Regulation 3(1) precludes the export of foreign bank notes and Authorised Dealers wishing to despatch their holdings of surplus foreign bank notes to their correspondents abroad for collection must obtain the prior written approval of the Financial Surveillance Department.

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B.12 Merchanting, barter and counter trade

(A) Merchanting trade

(i) Authorised Dealers may authorise merchanting trade transactions by residents provided that the time-lag between paying funds away to the foreign supplier (seller) and receiving funds from the foreign importer (buyer) will not exceed 60 days for trade with countries on the African continent and 30 days for trade with any other country.

(ii) Authorised Dealers must ensure that payment is received from the foreign importer (buyer), which must include the South African merchant's profit and must be received in foreign currency or 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.

(iii) A copy of the relative agreement entered into between the parties concerned or a commercial invoice from the seller together with a commercial invoice from the South African merchant must be produced in confirmation of the arrangements.

(iv) These transactions should preferably be covered by confirmed irrevocable letters of credit issued by the foreign importer's bankers in favour of the South African merchant.

(v) In instances where the above-mentioned requirements cannot be complied with, a written application must within 14 days be submitted to the Financial Surveillance Department for consideration.

(vi) Authorised Dealers should note that non-compliance with the above directives will be viewed in a serious light.

(B) Barter and counter trade

(i) Transactions of this nature must be referred to the Financial Surveillance Department for prior written approval.

(ii) Requests for barter and counter trade must be supported by copies of the contracts entered into between the relative parties with a full explanation of the manner in which the values of the goods have been arrived at. Where an open market or world price exists, any deviation therefrom must be fully substantiated and motivated.

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B.13 Buying and selling commissions

(A) Buying commissions

(i) Buying commissions may be effected to independent agents outside South Africa in foreign currency or in Rand to the credit of a Non-resident Rand account, provided that the client confirms in writing that the rate of the commission or fee is normal in the particular trade concerned.

(B) Selling commissions

(i) Where payment for goods exported to countries outside South Africa has been received in foreign currency or in 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, or the Authorised Dealer concerned is fully satisfied that payment will be so received, foreign currency may be made available in settlement of commissions due to independent selling agents on viewing an invoice or statement of account from the selling agent and provided that the client confirms in writing that the rate at which such payments are calculated can be regarded as reasonable in the trade concerned.

(ii) Authorised Dealers are reminded that such commissions (or any other related expenses) may not be set off against export proceeds unless specifically authorised by the Financial Surveillance Department or provided for in the Authorised Dealer Manual.

(C) Commission and/or brokerage on investments introduced into South Africa from abroad

(i) Authorised Dealers may approve, against the production of documentary evidence confirming the amount involved, applications by residents to effect commission and/or brokerage to non-resident parties in respect of investments introduced into South Africa from abroad, provided that the client confirms in writing that the rate at which such payments are calculated is market related.

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B.14 Miscellaneous transfers

(A) General

(i) Authorised Dealers may approve applications by South African business entities and/or individuals for the remittance abroad of the payments mentioned below against the production of documentary evidence confirming the amounts involved.

(B) Advertising, exhibition, sponsorship and trade fair expenses

(i) Advertising and exhibition fees, inclusive of sponsorship fees, in respect of participation in trade fairs outside the CMA.

(C) Charges for repairs and adjustments to goods temporarily exported

(i) In the case of manufactured goods registered with Customs, for re-export to their country of origin for repairs or adjustments, provided that Authorised Dealers are fully satisfied that the funds are required for repairs or adjustments and not for replacements.

(D) Charges in connection with legal disputes

(i) Legal fees, court costs as well as upfront deposits for legal work incurred outside the CMA.

(E) Insurance and road accident fund claims due to non-residents

(i) Claims payable to non-residents as a result of injury, loss or damages suffered while visiting South Africa. In the event of the recipient being an emigrant, the funds must be credited to an emigrant's capital account.

(F) Court judgement payments

(i) Payments due to non-residents in terms of or as a result of any judgement granted by a court in South Africa.

(G) Examination fee payments

(i) Examination fees payable to schools, universities or similar educational institutions or examining bodies abroad whose exams are being held in South Africa.

(H) Medical expenses

(i) Medical examination expenses in respect of prospective contract workers and immigrants, provided that the account from the non-resident medical practitioner, addressed to the resident corporate entity, is submitted in support of the request.

(I) Passport, visas, birth and death certificates, testimonials, degrees and diplomas

(i) Costs relating to the renewal of passports and in respect of the cost of obtaining visas, as well as copies of birth and death certificates, testimonials, degrees and diplomas.

(J) Refunds

(i) Refunds paid by SARS to non-residents, including refunds in respect of income tax paid subsequent to the date of emigration, provided that Authorised Dealers are satisfied that the beneficiaries are permanently resident outside the CMA.

(ii) Pension payments that have been received from outside the CMA after the demise of a resident beneficiary.

(iii) Refunds in respect of orders, tour reservations, registration fees, erroneous payments and overpayments by non-residents.

(iv) Any other refunds not exceeding a total value of R100 000 per calendar year due to non-residents involving related parties, provided that the Authorised Dealer is satisfied that the relevant transaction complies with the transfer pricing guidelines and that suitable documentary evidence is viewed in this regard.

(K) Registration of drugs

(i) Fees due by pharmaceutical companies registered in South Africa in respect of the registration of drugs outside the CMA.

(L) Rental and lease payments

(i) Rental and lease payments in respect of capital goods utilised in South Africa or utilised outside South Africa to fulfil any contractual obligations.

(M) Sporting events

(i) Entrance fees for participation in international sporting events.

(N) Subscriptions

(i) Current membership and affiliation fees to recognised medical, engineering and other technical, learned or international societies.

(ii) Club subscriptions.

(iii) Current subscriptions for international business or technical information services, supplied via data or telephone lines to visual display units and printers.

(O) Technical service payments

(i) Fees including reimbursements of air fares to the CMA due in respect of non-residents brought to South Africa for the specific purpose of installing or repairing specialised machinery and equipment or for commissioning and supervising the installation thereof, as well as training local personnel in this regard.

(P) Tender documentation

(i) Fees due to acquire tender documentation in order to tender for contracts outside the CMA.

(Q) Transportation costs and cash floats

(i) Ship disbursements, landing fees, fuel costs, emergency repair costs, toll fees and other fees related to the transport of goods.

(ii) In cases where a resident must effect these payments on a regular basis in cash to non-residents or on behalf of non-residents, Authorised Dealers may accord residents with a cash float in foreign currency not exceeding the equivalent of R100 000 at any one time. The cash float may only be replenished against the presentation of documentary evidence confirming the utilisation of foreign currency from the cash float for these purposes.

(iii) Authorised Dealers may also make advance payments in foreign currency, not exceeding the limit mentioned above, to non-resident petroleum and concession companies where cards will be issued to allow for the payment of petrol and toll fees respectively. The accounts may be replenished against the presentation of documentary evidence confirming the purposes for which funds were utilised.

(R) Registration of agrochemical products

(i) Registration fees in respect of agrochemical products registered outside the CMA.

(S) Visiting artistes, entertainers, sportsmen and similar professionals

(i) The net earnings of foreign artistes, entertainers, sportsmen and similar professionals engaged by residents, may on departure be effected by Authorised Dealers, provided that they view documentary evidence from SARS confirming that all tax commitments have been met.

(ii) Where a contract requires that an upfront or advance payment be transferred prior to completion of the non-resident's contractual obligations, such payment may only be credited to an Escrow account and may only be released proportionately after the completion of each performance.

(T) Foreign contract payments

(i) Expenses, e.g. salaries, accommodation costs, incurred abroad by residents as a result of their foreign contractual obligations. A copy of the relevant foreign contract must be viewed.

(U) Conference, congress, seminar fees

(i) Residents, including local companies, may be permitted to pay conference, congress and seminar fees (including ad hoc short-term courses presented at foreign entities) to non-residents in respect of local or international events, provided that documentary evidence from the foreign beneficiary is submitted in support of the request.

(V) Employment contracts involving non-residents

(i) Where South African entities are required to remit funds abroad in respect of employment contracts involving non-residents who are employed in South Africa, Authorised Dealers may allow such transfers provided that the payments are commensurate with the work undertaken. In this regard the provisions of section B.5(A)(i) of the Authorised Dealer Manual should be adhered to by the individual contract workers.

(ii) Where South African entities are required to remit funds abroad in respect of employment contracts involving non-residents who are employed outside South Africa, Authorised Dealers may allow such transfers provided that the payments are commensurate with the work undertaken.

(W) Mould payments

(i). Payments in respect of the design and/or manufacturing of moulds not exceeding R100 000. A copy of the underlying agreement must be viewed and the Authorised Dealer should, prior to effecting the payment, be satisfied that:

(a) the mould is manufactured by the foreign supplier;

(b) it is only for a once-of design and manufacturing of the mould; and

(c) the mould is required to manufacture goods to be imported by the applicant.

(X) Miscellaneous payments

(i) Miscellaneous payments within a limit of R100 000 per transaction to non-residents not specifically dealt with elsewhere in the Authorised Dealer Manual.

(ii) Suitable documentary evidence must be viewed substantiating the amount and nature of the liability.

(iii) The nature of these transactions must be correctly reported to the Financial Surveillance Department via the Reporting System.

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B.15 Guarantees

(A) Guarantees to non-residents

(i) Authorised Dealers may, without reference to the Financial Surveillance Department, issue guarantees to non-residents on behalf of residents for transactions that are permissible in terms of the Authorised Dealer Manual or alternatively where prior written approval from the Financial Surveillance Department has been granted.

(ii) Capital guarantees (refer to section B.2(C) of the Authorised Dealer Manual) and currency transfer guarantees are excluded from the dispensation.

(iii) Authorised Dealers may, where applicable, approve the extension of the guarantees authorised.

(iv) In the event of such guarantees being implemented, Authorised Dealers may effect payment in terms thereof.

(B) Guarantees issued by non-residents

(i) Authorised Dealers may grant local financial assistance to a resident, who is not an 'affected person', against guarantees issued by non-residents.

(ii) Payment in respect of guarantee fees payable on guarantees issued by non-residents, may be effected provided that the fee is market related or falls within an approved percentage of the guarantee amount based on existing market practice.

(iii) Shipping guarantees may be issued to residents acting on behalf of non-residents, against guarantees by non-residents.

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B.16 Credit and/or debit cards

(A) Credit and/or debit cards authorised for use outside the CMA

(i) All credit and/or debit cards, including co-branded cards, issued by Authorised Dealers, as licensed by American Express, Diners Club, MasterCard or Visa may be utilised outside the CMA, subject to the provisions mentioned in subsections (D) and (E) below and provided that all outward transactions are reported in terms of the Reporting System.

(B) Issue of credit and/or debit cards to non-residents

(i) Credit and/or debit card issuers may issue such cards to non-residents, provided that the expenditure is settled in foreign currency or 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.

(C) Bulk transfers by credit and/or debit card issuers

(i) Authorised Dealers may permit periodic bulk transfers by credit and/or debit card issuers in settlement of debits received from abroad and commission charges due in respect of amounts spent by cardholders.

(ii) Certain card issuers have set off arrangements with their overseas associates and settlement is effected for net amounts only.

(D) Travel allowances

(i) A resident or a resident temporarily abroad in whose name one or more bank credit and/or debit cards have been issued may use such cards to avail up to 100 per cent of the authorised single discretionary allowance or the remaining balance thereof applicable to the journey of the resident.

(ii) In the event of any contravention of the provisions of the Regulations a cardholder may be deprived of the use of all cards in addition to being liable for prosecution.

(E) Miscellaneous payments for imports, services or subscriptions by means of credit and/or debit cards

(i) Resident individuals or local entities in whose name one or more bank credit and/or debit cards have been issued may be permitted to make permissible foreign currency payments for small transactions (e.g. imports over the Internet), by means of such credit and/or debit cards.

(ii) Payments are limited to R50 000 per transaction.

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

(iv) It should be brought to the attention of cardholders that this dispensation does not absolve them from ad valorem excise and custom duties or from complying with the requirements imposed by Customs.

(F) Foreign lottery tickets and gambling activities

(i) Residents may not participate in lotteries organised abroad as such participation contravenes the Lotteries Act, 1997 (Act No. 57 of 1997).

(ii) 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 aforementioned Act.

(iii) Accordingly, Authorised Dealers must decline requests to purchase foreign currency for such purposes in all instances.

(iv) Residents may not use their credit and/or debit cards in South Africa to facilitate payments for the above-mentioned purposes. In addition all issuers of American Express, Diners Club, MasterCard and Visa cards may not accept such debits against resident cardholder's accounts in respect of the payment for foreign lottery tickets or online gambling activities.

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B.17 Foreign currency holdings and other foreign assets

(A) Foreign earned income

(i) Private individuals (natural persons) resident in South Africa are exempted from the provisions of Regulations 6 and 7 in respect of foreign earned income with effect from 1997-07-01 (i.e. income earned on approved foreign assets or in respect of services rendered to non-residents while physically abroad), with the exception of the proceeds of merchandise exports, which must be repatriated to South Africa within 30 days from the date of becoming entitled thereto.

(B) Foreign inheritance and legacies from bona fide non-resident estates

(i) Residents, who inherited foreign assets from a non-resident after 1998-03-17 are exempted from the provisions of Regulations 6 and 7.

(ii) Residents need not 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.

(iii) The retention of such assets abroad is subject to the condition that the assets will not be placed at the disposal of other residents (i.e. no loans etc. to other residents or 'loop structures').

(C) Gifts and/or donations from non-residents

(i) Any foreign asset received by a resident from a non-resident as a gift or donation is not exempted from the provisions of Regulations 6 and 7 and must be declared and repatriated to South Africa. Alternatively, a fully motivated application to retain the assets abroad must be submitted to the Financial Surveillance Department.

(D) Foreign inheritance and legacies from South African estates with foreign assets

(i) Residents, who became entitled to a foreign inheritance from the estate of a resident, are required to declare such foreign assets inherited via an Authorised Dealer to the Financial Surveillance Department for exemption from the provisions of Regulation 6 and/or 7.

(ii) The foreign assets inherited may, on application, to the Financial Surveillance Department normally be retained abroad provided that the assets were held abroad by the deceased in compliance with the provisions of the Regulations.

(iii) The approval of the Financial Surveillance Department to retain such foreign assets abroad will be granted subject to the condition that the foreign assets may not be placed at the disposal of other residents.

(iv) 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, 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 is subject to the conditions that the assets will not be placed at the disposal of other residents.

(E) Residents

(i) Residents and foreign nationals who are holders of foreign currencies outside South Africa must, unless exempted elsewhere in the Authorised Dealer Manual, offer to sell their holdings to an Authorised Dealer within 30 days from the date of becoming entitled thereto.

(F) Retention of foreign currency balances abroad

(i) Attention has repeatedly been drawn to the obligations imposed on residents by Regulation 6 and a serious view will be taken by the Financial Surveillance Department of any unauthorised retention of foreign currency balances, whether with foreign banks, overseas principals, agents or shippers.

(G) Disposal of legal foreign assets held

(i) Residents with legally held foreign assets may not dispose of such assets to other residents, whether settlement takes place in Rand or foreign currency, without the specific prior written approval of the Financial Surveillance Department.

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B.18 Control of exports - general

(A) Export declarations

(i) All exports to countries outside South Africa must be supported by the prescribed SARS Customs Declaration.

(ii) All temporary exports 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.

(iii) 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.

(B) Regulations in respect of goods exported for sale abroad

(i) Authorised Dealers must ensure that all exporters are aware of their legal obligation in terms of the provisions of Regulations 6, 10 and 11 to:

(a) sell goods exported within a reasonable time, but no later than six months from the date of shipment;

(b) receive the full foreign currency proceeds not later than six months from the date of shipment. Authorised Dealers may authorise South African exporters to grant credit of up to 12 months to foreign importers, provided that the Authorised Dealer granting the authority is satisfied that the credit is necessary in the particular trade or that it is needed to protect an existing export market or to capture a new export market. In this regard, Authorised Dealers are requested to specifically draw the attention of exporters to the provisions of Regulation 6(1) and (5);

(c) receive payment in foreign currency or 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;

(d) offer for sale to an Authorised Dealer the full foreign currency proceeds within 30 days after becoming entitled thereto or deal with it in accordance with the rules applicable to CFC accounts; and

(e) report in writing to an Authorised Dealer the non-receipt of the full foreign currency proceeds within the prescribed period, and the failure to sell the goods exported within six months from the date of shipment.

(C) Exports against payment in Rand

(i) Authorised Dealers must refer all export transactions with a value in excess of R25 000 per transaction to the Financial Surveillance Department where payment is tendered in Rand notes.

(D) Control of export proceeds

(i) Authorised Dealers must inform their exporting clients that the Financial Surveillance Department will, through the use of an electronic monitoring system, monitor the receipt of export proceeds.

(ii) Authorised Dealers must emphasise to their exporting clients the importance of accurately completing the prescribed SARS Customs Declaration and integrated form for export proceeds, which transactions are reported by Authorised Dealers (including the Custom Client/Code Numbers and Unique Consignment References).

(E) Goods exported by rail

(i) Authorised Dealers must inform their exporting clients who export goods by rail to complete the prescribed SARS Customs Declaration.

(F) Exports on consignment

(i) While it is not desired to prevent the export of goods on consignment where this is the normal practice in any particular trade, Authorised Dealers should advise their exporting clients of the provisions of Regulation 11.

(ii) General usance of the trade should be borne in mind and Authorised Dealers should be on their guard against attempts to unduly delay the repatriation of proceeds having regard to the provisions of Regulation 6(5)(a).

(G) Export of motor vehicles

(i) 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).

(ii) In respect of the temporary export of motor vehicles to all countries outside the CMA, travellers must complete the prescribed SARS Customs Declaration.

(H) Temporary exportation of diamonds

(i) Authorised Dealers must inform their clients who export diamonds for further processing abroad (e.g. cutting and grading) that the prescribed SARS Customs Declaration must be completed when exporting the diamonds and that the onus is on the exporter to produce documentary evidence when requested to do so, confirming receipt of the diamonds returned to South Africa.

(ii) All conditions imposed by the South African Diamond and Precious Metals Regulator must be strictly adhered to.

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B.19 Control of exports - miscellaneous

(A) Replacement goods, short shipments and goods under guarantee

(i) Authorised Dealers must advise exporters that goods to be shipped in replacement of rejected or defective goods previously shipped or in completion of a previous short shipment may be exported under cover of the prescribed SARS Customs Declaration, provided that:

(a) the full invoice value of the original shipment has been or will be received from the consignee;

(b) the exporter is bound by guarantee or trade practice to make good the deficiency without charge; and

(c) where applicable, the replaced goods are being destroyed, reimported or sold abroad for payment in foreign currency or 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.

(B) Export of advertising matter and trade samples

(i) Authorised Dealers must advise exporters that advertising matter and trade samples on a no-charge basis may be exported under cover of the prescribed SARS Customs Declaration, provided that the goods are being shipped purely for advertising or promotional purposes.

(C) Goods re-exported for repairs and adjustments

(i) In the case of manufactured goods registered with Customs, for re-export to their country of origin for repairs or adjustments free of payment, the goods may be exported under cover of the prescribed SARS Customs Declaration.

(D) Return of goods for which no payment has been made

(i) Authorised Dealers must advise exporters that the return of goods to the original supplier, free of counter value or re-exports for the latter's account, may be exported under cover of the prescribed SARS Customs Declaration.

(E) Temporary export of goods into Africa

(i) Authorised Dealers may advise exporters that the temporary export to African countries of used equipment, which is required by residents to enable them to fulfil any contractual obligations may be exported under cover of the prescribed SARS Customs Declaration, provided that the equipment is the contractor's own property.

(F) Export of defective goods for replacement

(i) Authorised Dealers should advise residents that they are permitted, under cover of the prescribed SARS Customs Declaration, to re-export to the original supplier defective goods that have been paid for, provided that it can be shown from the production of documentary evidence that the foreign supplier has agreed to:

(a) replace the consignment on a no-charge basis with goods of an equivalent value (in such cases the applicant must, if necessary, be in possession of a permit to cover the importation of the replacement goods);

(b) refund the cost of the defective goods; or

(c) provide a credit note for the full value of the defective goods.

(ii) Exporters should be advised that the replacement goods should be imported within a reasonable time or that the foreign currency refund is transferred to South Africa in terms of the provisions of Regulation 6.

(G) Export of postage stamps or philatelic items

(i) The export of postage stamps and philatelic items must be regarded as a normal export transaction subject to the completion of the prescribed SARS Customs Declaration. Enquiries must, if needed, be referred to the Financial Surveillance Department.

(ii) Authorised Dealers must advise their clients that postage stamps or philatelic items exported for exhibition purposes must be returned to South Africa within a period of six months.

(H) Export of currency coins or numismatic items

(i) Except as provided for in (ii) and (iii) below, all matters relating to the export of gold coins, currency coins and numismatic items must be referred to the Financial Surveillance Department.

(ii) As an exception, Authorised Dealers may allow residents to export gold coins (excluding Krugerrand coins), currency coins and numismatic items within an overall limit of R300 per applicant per calendar year, subject to the completion of the prescribed SARS Customs Declaration.

(iii) Authorised Dealers must advise their clients that currency coins and numismatic items exported for exhibition purposes must be returned to South Africa within a period of six months.

(I) Export of motor vehicles from the CMA by non-residents

(i) The exportation of motor vehicles belonging to non-residents, who have purchased the vehicles in the CMA and who wish to export their motor vehicles from the CMA either temporarily or permanently, is allowed provided the prescribed SARS Customs Declaration is completed.

(J) Goods of non-South African origin paid for and re-exported

(i) Goods imported into South Africa and paid for, may be exported subject to the completion of the prescribed SARS Customs Declaration.

(K) Re-exports of goods of non-South African origin not paid for or ex-bond

(i) Non-residents are permitted to take out of South Africa any vehicles and other goods brought into the CMA.

(ii) Goods imported in bond may be exported ex-bond without the completion of any export declaration.

(L) Final settlement - exports

(i) Refunds may be effected to purchasers in countries outside South Africa representing final adjustments in respect of exports from South Africa (e.g. produce under-yields, weight adjustments), provided that evidence is produced showing that the full invoice price for the consignment has been received in foreign currency or in 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.

(M) Foreign customs duty

(i) Where goods are exported on a delivered duty paid basis, Authorised Dealers may provide foreign currency in payment of the foreign customs duty against the production of documentary evidence confirming the amount involved.

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B.20 Acceptance of foreign bank notes and foreign currency travellers cheques

(A) Dispensation to travel agents, hotels, restaurants, shops and other entities whose business is directly related to the tourist industry

(i) Authorised Dealers may authorise travel agents, hotels, restaurants, shops and other entities whose business is directly related to the tourist industry to accept foreign bank notes and foreign currency traveller's cheques from visitors to South Africa in payment of goods supplied and services rendered against a written undertaking that such foreign currency will be sold to an Authorised Dealer not later than the following business day after acquisition thereof.

(ii) A record of all transactions must be kept and be available for inspection by the Financial Surveillance Department.

(iii) The authorised parties may not exchange currency offered by foreign tourists or any other party for Rand or any other currency without an underlying sale of goods and/or services rendered.

(iv) Authorised Dealers must advise the Financial Surveillance Department of the names, addresses and nature of business of the parties to whom such authority has been granted on a monthly basis.

(B) Dispensation for residents

(i) Authorised Dealers may purchase foreign bank notes from residents who received the foreign bank notes from visitors to South Africa as payment for services rendered, gratuities, tips or gifts.

(C) Dispensation for residents

(i) Authorised Dealers should note that foreign bank notes or other foreign currency instruments such as traveller's cheques may be accepted in payment of exports and services rendered.

(ii) Resident exporters receiving payment in this manner must, however, declare and offer for sale such foreign currency to an Authorised Dealer not later than the following business day after acquisition thereof.

(D) Foreign currency not purchased by Authorised Dealers

(i) Any foreign currency offered for sale to an Authorised Dealer but not purchased by them must immediately be reported to the Financial Surveillance Department.

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C. Gold

(A) Export of gold jewellery by manufacturing jewellers

(i) All applications for permission to export gold jewellery by manufacturing jewellers should be referred to the South African Diamond and Precious Metals Regulator in terms of the Precious Metals Act, 2005 (Act No. 37 of 2005).

(ii) Exporters should be aware that:

(a) the full sale proceeds of all exports must be received in South Africa in foreign currency or 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; and

(b) each shipment for export must be supported by the prescribed SARS Customs Declaration.

(B) Other exports of gold

(i) All applications for permission to export gold in any form should be referred to the South African Diamond and Precious Metals Regulator.

(C) Acquisition of gold for trade purposes

(i) The acquisition of gold for legitimate trade purposes by e.g. manufacturing jewellers, dentists, is subject to the approval of the South African Diamond and Precious Metals Regulator.

(ii) After receiving such approval, a permit must be obtained from SARS which will entitle the permit holder to approach Rand Refinery Limited for an allocation of gold.

(iii) The holders of gold, having received the approvals outlined above, are exempt from the provisions of Regulation 5(1).

(D) Advances against gold

(i) Payment of an instalment of the purchase price of gold sold to an Authorised Dealer is not regarded as an advance against gold and is permissible.

(E) Krugerrand coins

(i) Provided that the purchase consideration has been received in South Africa in foreign currency or 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, up to 15 Krugerrand coins or the equivalent in fractional Krugerrand coins may be exported to

non-residents supported by the prescribed SARS Customs Declaration. Non-resident visitors may export up to 15 Krugerrand coins or the equivalent in fractional Krugerrand coins, supported by the prescribed SARS Customs Declaration, provided that they can prove that the coins were acquired with the proceeds of foreign currency introduced.

(ii) All applications from e.g. overseas banks, for large quantities of Krugerrand coins should be referred to Rand Refinery Limited.

(F) Marketing of South African gold

(i) South African gold producers may elect to sell their total gold output to approved counterparties, once exempted by the Financial Surveillance Department from the provisions of Regulation 5.

(ii) The full export proceeds must be received in South Africa in foreign currency or 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.

(G) Applications for the importation of gold

(i) All applications for the importation of gold must be referred to the South African Diamond and Precious Metals Regulator.

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D.1 Forward cover or hedging transactions between Authorised Dealers and residents

(A) General

(i) The aim of hedging is either to offset or to minimise the risk of losses that an enterprise may be exposed to due to the effect of price changes on its assets, liabilities or future firm and ascertained commitments and/or accruals.

(ii) Authorised Dealers must ensure that dealings in hedging instruments are not undertaken either for speculative purposes or as a means of circumventing the Regulations.

(iii) Residents, excluding transactions by private individuals trading on online platforms may, however, subject to the conditions outlined in subsection (B)(i) below, hedge their foreign exchange risk in a controlled manner through the active management of their currency exposures in the over the counter foreign exchange market.

(iv) This section of the Authorised Dealer Manual is concerned with the multiplicity of over the counter hedging instruments and techniques which are divided into the following main categories:

(a) forward contracts;

(b) futures contracts (excluding currency futures listed on a regulated exchange in South Africa);

(c) options;

(d) warrants; and

(e) swaps.

(v) Applications for spot foreign currency by residents to cover future commitments or accruals should normally be refused unless permission has been granted elsewhere in the Authorised Dealer Manual. The applicants must be informed of the permissible cover contracts which are obtainable by means of the relevant hedging instruments.

(B) Foreign currency against Rand in respect of forward contracts or foreign exchange option contracts not exceeding 12 months to maturity (active currency management)

(i) Foreign currency may be sold forward to or purchased forward from residents, excluding transactions by private individuals trading on online platforms, by either entering into a forward contract or a foreign exchange option contract with an Authorised Dealer, subject to the following conditions that:

(a) The facilities are required to cover a direct underlying foreign currency exposure and to manage possible losses arising from adverse movements in foreign exchange rates from a transaction that is:

(aa) permissible in terms of the Authorised Dealer Manual;

(bb) in respect of a specific authority that has been granted by the Financial Surveillance Department; or

(cc) in respect of a resident party actively managing foreign exchange risk exposure, inter alia, in respect of import payments, export proceeds, service type payments/receipts, tenders, acquisitions, balance sheet risk and loans.

(b) While cover may not be granted for a period extending beyond 12 months, contracts may be entered into and exited at the client's discretion and need not run until the commitment or accrual has to be met.

(c) The same underlying commitment or accrual is not already covered forward.

(d) In respect of all commitments or accruals, documentary evidence is exhibited at the time of pay away confirming the nature and extent of the commitment or that foreign currency is definitely accruing and the nature and extent of such accruals.

(e) All settlements in terms of forward cover taken out by clients not resulting in the physical conversion of currency to and from Rand (i.e. the so called 'in-between trades' must take place in Rand).

(f) Authorised Dealers facilitating the 'in-between trades' must furnish the Financial Surveillance Department with the following reports on a monthly basis:

(aa) summary beneficial holdings trading report indicating volumes, value and ownership differentiating between the following investor classes: corporates, individuals, institutional investors and non-residents; and

(bb) a report depicting the forward rates applicable to each contract concluded, supported by parallel graphs of trading volumes, number of contracts and value, specifically highlighting the impact of the 'in-between trades' on the foreign exchange market and the exchange rate of the Rand.

(g) The reports must be submitted by sending an email to SARB-HEDGE@resbank.co.za, specifying the wording "Active Currency Management Report" in the subject field by the 7th of the

following month. The beneficial holdings trading report must only reflect the 'in-between trades' where the client does not convert Rand into foreign currency and vice versa in terms of the contract forward rate but decides to rather settle the contract in Rand. Therefore, the reporting must exclude legitimate settlements in Rand (e.g. export proceeds).

(ii) Institutional investors, as defined in section B.2(H) of the Authorised Dealer Manual, must take cognisance that any position held as a result of entering into the 'in-between trades' is regarded as foreign exposure and must accordingly be marked off against their respective prudential limits as well as being accounted for in the quarterly asset allocation reports.

(iii) In respect of cover granted to local stockbrokers for foreign exchange transactions with non-residents on the JSE Limited, the period of such cover may not exceed 45 days from the date of the transaction as evidenced by brokers' notes.

(C) Foreign currency against Rand in respect of forward contracts or foreign exchange option contracts exceeding periods longer than 12 months

(i) Foreign currency may be sold forward to or purchased forward from residents by either entering into a forward contract or a foreign exchange option contract with an Authorised Dealer, subject to the following conditions that:

(a) The facilities are required to cover a firm and ascertained foreign exchange commitment due to a non-resident or a foreign exchange accrual due from and payable by a non-resident arising from a transaction either:

(aa) permissible in terms of the Authorised Dealer Manual; or

(bb) in respect of which a specific authority has been granted by the Financial Surveillance Department.

(b) While cover may not be granted for a period extending beyond the due date of the underlying commitment or accrual, contracts may be entered into at any time after the commencement of the commitment or accrual for the full amount or part thereof and, in the circumstances outlined in subsection (F) below, need not run until the commitment or accrual has to be met.

(c) The same underlying commitment or accrual is not already covered forward.

(d) In respect of imports, the nature and extent of the import commitment must be confirmed by any one of the documents

specified in section B.1(B) of the Authorised Dealer Manual or pro forma invoices, purchase orders, copies of import letters of credit or copies of order confirmations or, when such documents are not available, a letter signed by two responsible persons, whose names and titles should appear below their signatures, giving full details of the underlying commitment. The above letter, however, does not absolve the client from the requirements of (i) below.

(e) In respect of the accrual of the proceeds of exports, the period of cover granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Financial Surveillance Department has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period.

(f) Where a dispensation has been granted by the Financial Surveillance Department to certain corporates from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions.

(g) In respect of all other commitments or accruals, documentary evidence is exhibited confirming the nature and extent of that commitment or that foreign exchange is definitely accruing and the nature and extent of such accruals.

(h) Where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation be presented within 14 days.

(i) All documentation submitted in evidence of the foreign exchange commitment or accrual in respect of which cover is availed of must indicate the contract number and the period of the contract. Furthermore, in respect of an import transaction where a letter has been submitted in terms of (d) above, the documents specified in section B.1(B) of the Authorised Dealer Manual or pro forma invoices, purchase orders, copies of import letters of credit or copies of order confirmations must subsequently be viewed.

(j) Authorised Dealers may allow South African corporates to cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year, subject to the following conditions:

(aa) all matured sales contracts must relate to firm and ascertainable underlying commitments and the underlying documentation must be viewed at the time of settlement, in accordance with the provisions of sections B.1(B) and (F) of

the Authorised Dealer Manual;

(bb) in respect of exports, all matured contracts must relate to firm and ascertainable underlying accruals and the requirements of section B.18 of the Authorised Dealer Manual must in each instance be adhered to;

(cc) under no circumstances may the contracts be used as a mechanism to speculate against the Rand;

(dd) proceeds of matured forward exchange sales contracts may only be credited to the applicant's CFC account in terms of the provisions of section E.(B)(ii)(a)(ff) of the Authorised Dealer Manual; and

(ee) any unutilised portion of the contracts must be swapped in terms of the provisions of subsection (F) below. The Authorised Dealer(s) with whom the applicant company transacts must ensure that the conditions outlined above are strictly adhered to.

(k) Authorised Dealers must be furnished with a written letter from their clients, signed by two senior officials, confirming that the above conditions were adhered to, together with a detailed schedule of utilisation to ensure compliance with the limit authorised, prior to considering a request for the next financial year.

(D) Foreign currency against foreign currency

(i) Subject to the same conditions as set out in subsections (A), (B) and (C) above, Authorised Dealers may arrange cover on behalf of their clients in one foreign currency against another.

(E) Transactions between Authorised Dealers

(i) Authorised Dealers may, in respect of permitted cover contracts, marry such contracts and deals with one another, either spot or forward in any currency.

(ii) In addition, Authorised Dealers may establish contra contracts on overseas foreign exchange markets or take their forward position into their spot position.

(iii) Authorised Dealers may also offset such risk through the South African Futures Exchange.

(F) Surrenders or extensions by means of swaps

(i) Since forward or foreign exchange option contracts entered into in

terms of subsection (C) above may only be concluded for firm and ascertained foreign exchange commitments or accruals and constitute a binding agreement between the parties concerned, such contracts may not be annulled prior to the maturity date.

(ii) Should circumstances arise in which it is required to vary the delivery date of a forward or foreign exchange option contract or part thereof, surrenders, early take-ups or extensions may be allowed, subject to settlement taking place by means of a counter contract or swap. Any profits or losses arising from such action should be regarded as being for account of the client and the rate applied to the extension of such contracts may under no circumstances be adjusted to incorporate the relative profit or loss.

(G) Hedging operations

(i) Subject to the same conditions as set out in subsections (A), (C) and (E) above, Authorised Dealers may arrange cover with resident clients in respect of the risks mentioned below.

(ii) Authorised Dealers are required to keep a register of all over the counter contracts traded and such register should be available at all times for inspection purposes by the Financial Surveillance Department.

(iii) All trades must take place under International Swaps and Derivatives Association agreements with all individual trades being subsequently confirmed with a transaction form stating who the Granter (Seller) and Grantee (Purchaser) of the products are.

(iv) Residents who wish to hedge directly with an offshore counterparty require the prior written approval of the Financial Surveillance Department.

(v) Risks for which cover may be arranged with resident clients:

(a) Interest rates

(aa) Authorised Dealers may cover their clients' firm and ascertained exposure to possible losses as a result of adverse movements in interest rates arising from an underlying transaction.

(bb) Such an interest rate hedge may be arranged by way of a futures contract on fixed-income securities or time deposits, including forward rate agreements, an interest rate options contract or an interest rate swap. An interest rate hedge in any other form may only be entered into after the prior written approval of the Financial Surveillance Department has been obtained.

(b) Price risk

(aa) Commodities

(1) Commodity futures and commodity option contracts with resident clients may be entered into, provided that they are quoted and traded on the JSE Limited.

(2) The terms and conditions pertaining to dealings by non-residents on the JSE Limited are incorporated in their Rules and Regulations.

(bb) Metals

Precious and base metals may be sold forward to or purchased forward from residents by either entering into a commodity futures contract or a commodity option contract with an Authorised Dealer.

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D.2 Forward cover transactions between Authorised Dealers and non-residents

(A) General

(i) The aim of hedging is either to offset or to minimise the risk of losses that an enterprise may be exposed to due to the effect of price changes on its assets, liabilities or future firm and ascertained commitments and/or accruals.

(ii) Authorised Dealers must ensure that dealings in hedging instruments are not undertaken for speculative purposes or as a means of circumventing the Regulations.

(B) Forward cover transactions between Authorised Dealers and non-residents

(i) Forward purchase and/or sale of Rand

(a) In addition to the criteria outlined in subsection (A) above, non-residents may purchase or sell Rand forward in the domestic foreign exchange market, subject to the conditions that:

(aa) The Rand bought or sold on this basis by the non-resident must purely be aimed at hedging the non-resident against a firm and ascertainable underlying local commitment or accrual which is denominated in Rand and which is either:

(1) permissible in terms of the Authorised Dealer Manual; or

(2) in respect of which a specific authority has been granted by the Financial Surveillance Department; or

(3) in respect of a non-resident party actively managing foreign exchange risk exposure.

(bb) While cover may normally not be granted for a period extending beyond 12 months, contracts may be entered into and exited at the client's discretion and need not run until settlement of the commitment or accrual.

(cc) The same underlying commitment or accrual is not already covered forward.

(dd) Non-resident counterparties who are foreign subsidiaries or branches of South African corporates or other South African entities, including foreign subsidiaries or branches of Authorised Dealers who wish to transact in Rand hedging for

its own account, present to the Authorised Dealer a copy of a specific approval from the Financial Surveillance Department granting permission for such a non-resident to enter into the Rand hedge transaction, plus suitable documentation confirming that an underlying Rand denominated commitment or accrual is in place.

(ee) In respect of hedging contracts for periods longer than 12 months, suitable documentation confirming that an underlying Rand denominated commitment or accrual is in place, is viewed on the settlement date.

(ff) 'Suitable documentation' as mentioned in (ee) above confirming the underlying transaction would in most instances be the official and binding document used between the contracting parties as evidence of the underlying transaction (e.g. a broker's note for the sale or purchase of local listed securities by the non-resident).

(gg) All settlements in terms of forward cover taken out by non-residents not resulting in the physical conversion of currency to and from Rand, i.e. the so called 'in-between trades' must be reported to the Financial Surveillance Department on the same basis as outlined in section D.1(B)(i)(f) and (g) of the Authorised Dealer Manual.

(ii) General information on trading parameters

(a) Non-resident correspondent banks are free to deal in the spot foreign exchange market. Spot transactions must, however, be settled on the original spot value date.

(b) Foreign exchange swap transactions by non-resident correspondent banks with Authorised Dealers involving the funding of short Rand positions may only be undertaken by non-resident correspondent banks in respect of their assets, liabilities or underlying firm and ascertainable exposures, commitments or accruals.

(c) Transactions that involve the outright purchase of Rand for purposes of making an investment constitute an exposure that can be hedged against exchange rate risk. Thus correspondent banks can create Rand on the swap for purposes of funding their nostro accounts.

(d) Swap transactions in the forward market with the sole purpose of trading an interest rate view and which do not involve the financing of a short Rand position are acceptable.

(C) Foreign currency against foreign currency

(i) Subject to the same conditions as set out in subsections (A) and (B) above, Authorised Dealers may arrange cover on behalf of their clients in one foreign currency against another.

(D) Surrenders or extensions by means of swaps

(i) Since forward or foreign exchange option contracts entered into in terms of subsection (B)(i)(a)(ee) above may only be concluded for firm and ascertained Rand denominated commitments or accruals and constitute a binding agreement between the parties concerned, such contracts may not be annulled prior to the maturity date. In the case of optional contracts, the contract matures once the full amount has been taken up, which may be prior to the final delivery (maturity) date mentioned in the contract.

(ii) However, should circumstances arise in which it is required to vary the delivery date of a forward or foreign exchange option contract or part thereof, surrenders, early take-ups or extensions may be allowed, subject to settlement taking place by means of a counter contract or swap. Any profits or losses arising from such action should be regarded as being for the account of the client and the rate applied to the extension of such contracts may under no circumstances be adjusted to incorporate the relative profit or loss.

(E) Hedging operations

(i) Subject to the same conditions as set out in subsections (A) and (B) above, Authorised Dealers may arrange cover with non-resident counterparties in respect of the risks mentioned below.

(ii) Authorised Dealers are required to keep a register of all over the counter contracts traded and such register should be available at all times for inspection purposes by the Financial Surveillance Department.

(iii) All trades must take place under International Swaps and Derivatives Association agreements, with all individual trades being subsequently confirmed with a transaction form stating who the Granter (Seller) and Grantee (Purchaser) of the products are.

(iv) Risks for which cover may be arranged with non-resident counterparties:

(a) Interest rates

(aa) Authorised Dealers may cover their clients' firm and ascertained exposure to possible losses as a result of adverse movements in interest rates arising from an

underlying transaction.

(bb) Such an interest rate hedge may be arranged by way of a futures contract on fixed-income securities or time deposits, including forward rate agreements, interest rate option contracts or interest rate swaps.

(cc) An interest rate hedge in any other form may only be entered into after the prior written approval of the Financial Surveillance Department has been obtained.

(b) Price risk

(aa) All contracts and instruments such as gilts, equity options and index-linked hedging instruments and warrants written by non-resident institutions and subscribed to by residents, excluding Authorised Dealers, must be referred to the Financial Surveillance Department on a case-by-case basis.

(bb) Once approval has been granted, all cross-border cash flows must be settled in foreign currency or 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.

(c) Credit risk (credit derivatives)

(aa) Authorised Dealers may enter into credit derivative transactions with non-resident counterparties in order to offer such non-residents protection on Rand denominated securities acquired in or debt advanced to the domestic markets.

(bb) Credit exposures resulting from foreign currency denominated loans advanced by non-residents to residents for domestic employment may also be assumed by Authorised Dealers.

(cc) No credit derivative transactions may be entered into with non-residents in respect of foreign currency denominated securities issued by residents or securities (including Rand denominated) issued by non-residents, except as provided for in sections B.2(I) and D.1(B) of the Authorised Dealer Manual.

(dd) Authorised Dealers may also enter into credit derivative transactions with non-resident banks in order to reduce such Authorised Dealers' credit risk exposure as a result of the above-mentioned transactions with non-residents or transactions with residents.

(ee) Where it is necessary for non-residents to place collateral with Authorised Dealers in respect of any credit derivative

transaction, only cash cover in Rand or the pledge of other unencumbered non-resident owned local Rand denominated assets is allowed.

(ff) Authorised Dealers may place funds in margin accounts or as collateral with non-resident banks as a result of permissible derivative transactions. Such funds must, however, form part of the foreign currency holdings of Authorised Dealers.

(gg) Authorised Dealers are only allowed to enter into credit derivative transactions in order to reduce credit risk exposures resulting from genuine underlying transactions. Documentary evidence must be viewed confirming the nature and extent of the underlying exposure. It follows that such transactions are not allowed for pure trading and speculative purposes.

(hh) Authorised Dealers are required to keep a register of all credit derivative contracts entered into and such register should be available at all times for inspection purposes by the Financial Surveillance Department. All transactions must take place in terms of International Swaps and Derivatives Association agreements or International Swaps and Derivatives Association confirmations. All individual transactions must subsequently be confirmed with a transaction form stating the name and domicile of the protection seller and protection buyer and signed undertakings by both parties that the premium or margin requirements reflected in the International Swaps and Derivatives Association agreement, are payable and receivable wholly in terms of that agreement and do not relate to any other agreement between the two parties.

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E. Non-resident Rand account, Customer Foreign Currency accounts, foreign currency accounts and foreign bank accounts

(A) Non-resident Rand accounts

(i) Transactions over Non-resident Rand accounts

(a) Rand accounts opened by non-residents must be designated and conducted as Non-resident Rand accounts.

(b) Authorised Dealers must report any transactions other than those specified in the table below that pass through these accounts, to the Financial Surveillance Department.

Debits	Credits
(1) Rand payments to residents for any purpose, except loans.	(1) The proceeds of sales of foreign currency made by a non-resident to an Authorised Dealer.
(2) Payments to other Non-resident Rand accounts.	(2) Payments from other Non-resident Rand accounts.
(3) Payment for foreign currency purchased.	(3) Rand payments that are eligible for transfer abroad in terms of the applicable sections of B.1 through to B.20, as well as G. of the Authorised Dealer Manual or for which approval of the Financial Surveillance Department has been obtained and after all requirements have been met.
(4) Rand payments to the account holder while visiting the CMA.	(4) Re-deposits of unused Rand withdrawn while visiting the CMA.
(5) Rand payments in respect of investment in local debt instruments in terms of the provisions of section G.(D) of the Authorised Dealer Manual.	
(6) Transactions by Authorised Dealers in terms of section B.2(I) of the Authorised Dealer Manual.	

(c) All transactions not specified above, require prior written approval from the Financial Surveillance Department.

(ii) Control over Non-resident Rand accounts

(a) Authorised Dealers are requested to exercise extreme care over deposits to Non-resident Rand accounts. Such accounts must be kept separately under the supervision of a responsible officer conversant with the principles and provisions of the Authorised Dealer Manual.

(b) Non-resident Rand accounts may not be overdrawn without the permission of the Financial Surveillance Department, except as provided for in section B.2(I) of the Authorised Dealer Manual. However, Authorised Dealers are permitted to use their discretion in allowing occasional overdrafts (as a result of clerical, transmission or operational errors) on the non-resident clearing accounts of foreign banks (vostro accounts) held in their books. It is, however, incumbent on the Authorised Dealer to advise the foreign bank concerned of such overdraft immediately and to request rectification thereof.

(c) Authorised Dealers are requested to advise the Financial Surveillance Department of all cases where the clearing accounts of foreign banks are regularly overdrawn in amounts of R25 million and over, or where the provision of cover is unduly delayed (i.e. beyond two business days from the date that the account went into overdraft). Cover for bank charges and other transactional expenses may continue to be provided on a periodic basis.

(iii) Transfer of non-resident funds between Authorised Dealers

The transfer of non-resident funds between Authorised Dealers is only permitted by means of the appropriate authenticated SWIFT message types. For all Rand transfers, the originator must quote the following in field 72:/REC/NTNRC.

Settlement will be effected via ZAPS (South African Payment System) or SAMOS (South African Multiple Option Settlement).

(B) Customer Foreign Currency accounts

(i) Authorised Dealers may open CFC accounts for the following South African entities (legal persons):

(a) CFC account holders include:

(aa) importers and exporters of goods;

(bb) ADLAs;

(cc) locally recognised ships' agents;

(dd) freight forwarders;

(ee) marine insurance brokers;

(ff) any South African entity, with the exception of those entities authorised in terms of the provisions of section B.20 of the Authorised Dealer Manual, that provides a service in South Africa to non-residents and who receives payment in foreign currency in South Africa;

(gg) local entities (i.e. legal persons) involved in foreign business transactions whereby they become entitled to commissions or profit in foreign currency as a direct result thereof (e.g. merchanting trade in accordance with section B.12(A) of the Authorised Dealer Manual, insurance brokers, stockbrokers, tour wholesalers or operators). It should be noted that such CFC accounts may not be overdrawn without prior written approval from the Financial Surveillance Department unless authorised elsewhere in the Authorised Dealer Manual; and

(hh) institutional investors to facilitate foreign currency deposits emanating from disinvestment proceeds pending the reinvestment of the funds offshore.

(b) Special CFC account holders include:

(aa) the insurance industry to cater for foreign currency working balances in terms of section B.10(D)(iii) of the Authorised Dealer Manual;

(bb) local entities involved in the importation and exportation of rough diamonds, crude oil, wrought gold and/or steel. Separate CFC accounts clearly designated as Special CFC accounts may, on application to an Authorised Dealer, be opened for these local entities (i.e. legal persons), to facilitate the local settlement in foreign currency between such account holders in respect of transactions which will result or have resulted in the direct importation and/or exportation by one of the entities involved of rough diamonds, crude oil, wrought gold and/or steel. The following provisions must at all times be strictly adhered to:

(1) no more than two local entities (i.e. one buyer and one seller) may be party to any transaction to be so settled and both parties must obtain permission from their

respective Authorised Dealers to conduct Special CFC accounts for such transactions;

(2) one of the parties to transactions to be so settled must be a registered importer and/or exporter of the commodity in question. The Authorised Dealer of the importer and/or exporter should be presented with suitable documentary evidence to this effect;

(3) the commodities to be so acquired must be destined for exportation or importation by one of the parties concerned and documentary evidence to this effect should be presented to the Authorised Dealer in whose books such a party conducts or wishes to conduct a Special CFC account;

(4) only the aforementioned transactions may be settled over such Special CFC accounts;

(5) only the party that will have to convert Rand to foreign currency in order to settle such transactions may be permitted to hedge its exposure in respect of the particular transactions. It follows that the party that will export or import the commodities may not be permitted to enter into hedging transactions in respect of their accruals or commitments resulting from such transactions; and

(6) Authorised Dealers should ensure that all other provisions of the Authorised Dealer Manual regarding imports, exports and hedging are fully complied with; and

(cc) local entities who are oil and gas right holders and whose sole trade relates to exploration and production (i.e. extraction only) may open and conduct CFC accounts without any restriction on the nature of transactions passing over the account, provided that all requirements relating to reporting, in terms of the Reporting System, are adhered to.

(c) The opening of CFC accounts for any other purpose requires prior written approval from the Financial Surveillance Department.

(ii) Control over CFC accounts

(a) The above-mentioned accounts are subject to the following conditions:

(aa) these accounts must form part of the bank's nostro account administration and accordingly the client cannot operate on it other than through and with the full cognisance and approval

of the Authorised Dealer concerned. Clients are permitted to retain funds in their CFC accounts without the obligation to convert the funds into Rand. The current repatriation requirement remains extant;

(bb) only foreign exchange transactions concluded in the name of the account holder and which qualifies as a permissible credit and/or debit, may be passed over these accounts;

(cc) all transactions must comply fully with the provisions of the Authorised Dealer Manual or the provisions of specific authorities from the Financial Surveillance Department;

(dd) hedging transactions may be entered into for specific import payments and the maturity proceeds used to replenish an overdrawn CFC account. Foreign currency may also be purchased in the spot market to replenish an overdrawn CFC account;

(ee) for compliance purposes, both the account holder and the Authorised Dealer must maintain an audit trail of all set offs;

(ff) foreign currency purchased in the spot market for permissible transactions in respect of a firm and ascertainable underlying commitment or the maturity proceeds of hedging contracts may only be credited to a CFC account if the funds are to be transferred abroad within a period of 30 days. Authorised Dealers must ensure that this dispensation is not abused;

(gg) the foreign currency deposits emanating from disinvestment proceeds by institutional investors may be held in a CFC account for up to 12 months whereafter it must be reinvested offshore or converted to Rand;

(hh) when permitting the transfer of funds between CFC accounts at different Authorised Dealers, such transfers may only be by means of the appropriate SWIFT client transfer message type. The following provisions should also be adhered to:

(1) if proceeds are transferred between CFC accounts, Field 72 of the appropriate SWIFTS client transfer message type should clearly indicate ‘TRF SPOT’ and/or ‘TRF HEDGE’. In the event of funds being transferred in bulk, this information should be broken down into the specific amounts, making up the total transferred;

(2) the Authorised Dealer receiving funds for credit to a CFC account from another Authorised Dealer may not accept such funds if Field 72 does not indicate, inter alia, the date on which the funds were originally credited to the

CFC account;

(3) transfer of foreign currency, which was not acquired by means of a spot transaction or from the maturity of hedging contracts, should be reflected in Field 72 as 'TRF FROM ABROAD';

(4) transfer between local entities in settlement of transactions in rough diamonds, crude oil, wrought gold and steel, should be reflected in Field 72 as 'TRF 4 COMMODITIES'; and

(5) the authority number should be reflected in Field 72 in the event of funds being transferred between CFC accounts in terms of specific authorities granted by the Financial Surveillance Department;

(ii) if a CFC account has been debited in respect of bridging finance, no forward cover may be availed of as the account may only be replenished by means of proceeds received from abroad;

(jj) where a group of companies operates CFC accounts, the South African parent company may consolidate the group's earnings and any local subsidiary may utilise the funds, provided that the group operate through a centralised treasury located in South Africa; and

(kk) interest earned on CFC accounts may be retained in such accounts and be used for set off purposes.

(iii) Permissible set offs/debits over CFC accounts

(a) The following payments may be set off against single CFC account balances:

(aa) imports and software electronically downloaded, including all costs related thereto;

(bb) the payment of expenses such as commission, freight, insurance and demurrage, which are expressed in a foreign currency;

(cc) advertising, exhibition or trade fair expenses;

(dd) charges for repairs and adjustments to goods exported temporarily;

(ee) charges in connection with legal disputes;

(ff) examination fees where the account holder is responsible for the payment thereof;

(gg) fees in respect of services rendered;

(hh) fees in respect of the registration of drugs;

(ii) royalties and fees arising from the use of patent, designs and trademarks;

(jj) subscriptions; and

(kk) technical service payments.

(b) The set offs and/or debits referred to above may only be passed provided that the Authorised Dealer concerned has satisfied itself that the transactions are permissible in terms of the various sections of the Authorised Dealer Manual or in respect of which a specific authority has been granted by the Financial Surveillance Department.

(iv) Exemptions

(a) Freight payments that are expressed in foreign currency and are directly related to a specific import or export transaction may be settled between local entities (i.e. legal persons) in foreign currency.

(b) Similarly, importers who do not conduct a CFC account or who have no inflow of foreign currency may purchase foreign currency in the spot market to pay freight charges to another resident provided that such resident has an obligation to pay freight charges in foreign currency.

(c) Foreign currency held by a locally recognised ships' agent (including cash to master transactions), freight forwarder, marine insurance broker or tour wholesaler or operator for the ultimate benefit or account of a non-resident entity (e.g. a ship's owner, freight forwarder, insurance broker or insurance entity abroad) need not be offered for sale to an Authorised Dealer. These funds may be retained in a CFC account until distribution on behalf of or remittance to the non-resident beneficiary abroad. Authorised Dealers must ensure that this concession is not abused.

(d) If the account holder is required to pay any interest on an overdrawn account by converting Rand into foreign currency, this may be permitted in the spot market.

(C) Foreign currency accounts

(i) Foreign currency accounts may be opened for private individuals (natural persons) resident in South Africa for transactions permissible in terms of the Authorised Dealer Manual and for non-residents.

(D) Foreign bank accounts

(i) Authorised Dealers may approve requests by South African companies to open and operate foreign bank accounts, subject to the following conditions:

(a) only South African companies that have legal/bona fide sources of income abroad are permitted to open foreign bank accounts;

(b) all foreign credits to such bank accounts are subject to the provisions of Regulation 6, except in respect of foreign earned dividends which are exempted from the aforementioned Regulation;

(c) funds that accrue in foreign bank accounts must be in respect of transactions permissible in terms of the Authorised Dealer Manual or a specific authority granted by the Financial Surveillance Department;

(d) applicants must provide a written undertaking to the Authorised Dealer approving the bank account confirming that no debits other than transfers to South Africa, debits permissible in terms of a specific authority from the Financial Surveillance Department or bank charges, will be passed over the foreign bank accounts; and

(e) applicants must ensure that the foreign bank accounts have been conducted within the ambit of the aforementioned conditions.

(ii) The Financial Surveillance Department reserves the right to instruct the applicant company to close any foreign bank account and for any funds accumulated therein to be repatriated to South Africa in the event of the above-mentioned conditions in (i) above not being complied with.

(iii) At the time of approving the opening of the foreign bank account, Authorised Dealers must report the following to the Financial Surveillance Department:

(a) the name and registration number of the applicant company;

(b) domicile of where the foreign bank account has been opened;

(c) the account holder and account number; and

(d) the purpose of opening the foreign bank account.

(iv) Authorised Dealers may, where applicable, approve the extension of the authorities previously granted by the Financial Surveillance Department provided the conditions stipulated in (i) above are strictly adhered to.

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F.1 Negotiable instruments denominated in Rand and Rand notes

(A) Cheques, dividend warrants and drafts

(i) The remittance to points outside South Africa of cheques, dividend warrants and drafts in Rand contravenes Regulation 3(1)(d) and such instruments presented to Authorised Dealers' overseas branches, offices and subsidiaries should not be negotiated but accepted for collection only. The remittance of the proceeds by the drawee bank is dependent on the production of documentary evidence that the transaction is permissible in terms of the Authorised Dealer Manual.

(ii) Bank drafts issued in Rand by Authorised Dealers are, however, exempted from the provisions of Regulation 3(1)(d) and may be honoured when presented for payment. The production of documentary evidence confirming that transactions are permissible in terms of the Authorised Dealer Manual is still applicable when issuing bank drafts.

(B) Import and export of Rand notes

(i) As the import and export of Rand notes are prohibited (except as provided for in section B.11 of the Authorised Dealer Manual), Authorised Dealers should not accept such notes received from points outside South Africa.

(ii) However, the proceeds of Rand notes repatriated from SADC members, excluding CMA members, may be remitted on the production of documentary evidence confirming that they were not exported from South Africa in contravention of the Regulations. In this regard, it would meet the requirements of the Financial Surveillance Department if consignments of notes are accompanied by the confirmation of the repatriating bank that the notes were acquired from bona fide travellers from South Africa in amounts not exceeding R25 000 per capita.

(iii) For statistical purposes, Authorised Dealers must advise the Financial Surveillance Department monthly of all amounts of Rand notes received from the aforementioned countries. The figures furnished must indicate the source from which the notes were received and the number of notes in each denomination.

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F.2 Assignment to Treasury of the right to goods exported and imported

(A) Exports

(i) Whenever goods have been exported from South Africa and the exporter has either failed to sell those goods or has not received payment in respect thereof within six months from the date of export, the exporter must within 14 days from the date of expiry of the six-month period, report the matter to the Treasury or to an Authorised Dealer.

(ii) In the absence of a satisfactory explanation for such failure, the Treasury may, in terms of the provisions of Regulation 11(1), order the exporter to assign to the Treasury the right to such goods.

(B) Imports

(i) Whenever goods have been purchased and paid for outside South Africa, but which goods have not been consigned to South Africa within four months of the date of payment, the importer must within 14 days from the date of expiry of the four-month period, report the matter to the Treasury or to an Authorised Dealer.

(ii) In the absence of a satisfactory explanation for the delay in the shipment of the goods, the Treasury may, in terms of Regulation 12(1), order the importer to assign to the Treasury the right to such goods.

(iii) For the purposes of Regulation 12, goods held in bond abroad are not regarded as having been shipped to South Africa.

(C) Exemptions

(i) Authorised Dealers may, at their discretion, both in the case of exports and imports, grant short extensions of the periods referred to in Regulations 11 and 12, provided that they are satisfied that the goods will be sold, or in the case of imports received in South Africa within a reasonable period, that the delay in the sale or shipment is due to factors outside the control of the local merchant, and that no intentional circumvention of the Regulations is involved.

(ii) Authorised Dealers should diarise import and export transactions to ensure compliance with these Regulations and should render monthly returns of all exemptions granted to their clients under this paragraph to the Financial Surveillance Department, furnishing details of:

(a) the name of the importer and exporter;

(b) date of payment or of export;

(c) amount of payment or declared value of export; and

(d) the reason for delay in shipment or, in the case of exports, of the repatriation of the export proceeds.

(D) Assignments

(i) In the event of an exemption being refused, the Treasury would instruct the importers and/or exporters to assign their right to the goods held outside South Africa to their Authorised Dealer, who would be requested to dispose of the goods to best advantage.

(ii) The sum payable as consideration for any assignment would be the amount realised, less the cost of realisation.

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G. Securities control

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(N) The Derivatives Market of the JSE Limited

(O) Dual listings of entities within SADC and SADC Depository Receipt on the JSE Limited

(A) Control over dealings by residents in securities owned by non-residents or in which such persons have an interest

(i) Exchange Control Regulations

(a) The regulations governing dealings in securities owned by non-residents are set out in Regulations 14 and 15.

(b) The attention of Authorised Dealers is drawn to the provisions of, inter alia, Regulation 10(1)(c). In this regard, it is essential that all securitiekins related transactions between a resident and a non-resident or emigrant whereby capital or any right to capital is directly or indirectly exported from South Africa, are carefully scrutinised. Documentary evidence such as brokers' notes or validated trade advices and auditors' certificates, where applicable, must be viewed in order to ensure that such transactions are concluded at arm's length and at fair and market related prices. In the case of any doubt on the part of the Authorised Dealer or Authorised Bank concerned, the proposed transaction must be referred to the Financial Surveillance Department.

(c) Residents of Lesotho, Namibia and eSwatini are also regarded as residents for purposes of securities control.

(ii) Glossary of terms

(a) For purposes of the application of this section of the Authorised Dealer Manual, unless the context otherwise indicates, the following definitions should be applied:

(aa) **Authorised Bank** means a person authorised by the Financial Surveillance Department to effect and cancel non-resident endorsements.

(bb) **Authorised Dealer** means a person authorised by the Treasury to deal in foreign exchange and to effect non-resident endorsements.

(cc) **BDA** is the Broker Dealer Accounting system operated and controlled by the JSE Limited.

(dd) **Certificated Securities** are securities issued in paper form.

(ee) **Controlled Securities** means:

(1) any security that is registered in the name of a non-resident or of which a non-resident is the owner or in which a non-resident has an interest; and

(2) any security acquired from a non-resident or acquired outside the CMA, by any person, irrespective of the residence of such person.

(ff) **CSA means** Custody and Settlement Agent appointed by a broking member (equities) in terms of Directive FL issued by the JSE Limited, to exercise custody over that member's managed account, safe custody and controlled account assets, and to effect settlement of certificated and uncertificated securities on behalf of that member and its clients.

(gg) **CSD** means central securities depositories.

(hh) **CSDP** means a duly appointed participant in a central securities depository.

(ii) **CSM** means a custody and settlement member of the JSE Limited who has been appointed in terms of the rules and on behalf of its clients and/or another member and that member's clients:

(1) exercises custody over managed accounts, safe custody and controlled account assets; and

(2) effects settlement of uncertificated and certificated securities.

(jj) **Settlement authority** means the person or persons appointed by the JSE Limited to manage the settlement of transactions in uncertificated securities effected through the trading system of the JSE Limited in terms of the rules and directives, as well as the CSD rules.

(kk) **Stockbroker** means a natural person who is a member or who is an officer or employee of a member and who is authorised and qualified under the rules of the exchange concerned to be a stockbroker.

(ll) **Stock exchange** means any association licensed in terms of section 10 of the Securities Services Act, 2004 (Act No. 36 of 2004).

(mm) **STRATE** means Share Transactions Totally Electronic Limited, a public company registered as a CSD in terms of the section 32 of the Securities Services Act, 2004 (Act No. 36 of 2004), which provides the official electronic settlement and custody services to the JSE Limited.

(nn) **TMS** means the trade monitoring system introduced by the Settlement authority in terms of which members of the JSE Limited, CSM and CSA, who introduce risk into the market, are levied with additional capital calls and cash margins.

(oo) **Uncertificated securities** mean securities as defined in section 29 of the Securities Services Act, 2004 (Act No. 36 of 2004), which are transferable without a written instrument and are not evidenced by a certificate.

(iii) General

(a) There are no restrictions on local dealings in securities, other than bearer securities, that are owned by residents.

(b) It is emphasised that this section applies not only to securities registered in the name of a non-resident, but also to securities in the name of a resident acting as a nominee for a non-resident.

(c) The principal objectives in controlling non-resident owned securities are to ensure that:

(aa) residents requiring funds outside the CMA do not obtain such funds by purchasing securities in the CMA and selling them outside the CMA without accounting for the proceeds in foreign currency or 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;

(bb) since all income due to non-residents on their securities is freely transferable, non-residents do not purchase securities from residents other than through approved channels at a fair and market related price; and

(cc) since exchange controls on non-residents have been abolished, the onus is on the South African buyer or seller of securities to prove that the transaction was concluded on an arm's length basis and at a fair and market related price.

(d) The scheme outlined hereunder has been designed to segregate securities owned by non-residents from securities owned by residents without imposing control over the actual securities in both certificated and uncertificated environments to allow non-residents the maximum freedom to change their investment portfolios without defeating the objectives outlined above, and at the same time to obviate the necessity for a cumbersome administrative system which, in the interests of investors and others concerned, it is naturally desired to avoid.

(e) All securities traded on the JSE Limited need to be dematerialised or immobilised in the electronic records of the CSD specifically established for this purpose, before it can be rendered 'good delivery'. The residential status will be flagged by the various CSDPs or settlement agents.

(f) Since only CSDPs would be able to initiate the dematerialisation process in an electronic settlement environment, the initiation of this process in respect of emigrants would need to be the CSDP of the Authorised Dealer controlling the particular emigrant's remaining assets or the CSDP contracted by such an Authorised Dealer, under the auspices of the controlling Authorised Dealer.

(g) Only the CSDP of Authorised Dealers may enter into securities lending transactions with non-residents and then only within the ambit of the powers granted to them.

(h) Except with the authority of the Financial Surveillance Department, no advances may be made against securities.

(i) The Financial Surveillance Department is of the view that in a certificated environment securities control can best be administered by a few financial institutions who have a detailed knowledge of the subject and requirements imposed by the Financial Surveillance Department. It has, therefore, been centralised in the hands of a few branches of Authorised Dealers, who are referred to hereunder as Authorised Banks and CSDPs.

(j) In an uncertificated environment there is no distinction between the duties of Authorised Dealers, Authorised Banks and CSDPs. CSDPs and settlement agents are also authorised as such by the Financial Surveillance Department, while members of stock exchanges are authorised by the exchanges concerned. CSMs and CSAs are authorised as such by the JSE Limited.

(k) The following Authorised Dealer branches or entities have been appointed as Authorised Banks under Regulation 14:

Authorised Dealer	**Branch or entity appointed as Authorised Bank**
ABSA Bank Limited	CIB Operations - Cape Town
	CIB Operations - Durban
	CIB Operations - Johannesburg
	CIB Operations - Port Elizabeth

Authorised Dealer	Branch or entity appointed as Authorised Bank
	CIB Operations - Pretoria
Bidvest Bank Limited	Head Office, Braamfontein, Johannesburg
Citibank, N.A., South Africa	Johannesburg
FirstRand Bank Limited	FirstRand Currency and Exchanges Department
	RMB Custody Services
Grobank Limited	Securities Division, Head Office, Johannesburg
Investec Bank Limited	Head Office, Sandton
Mercantile Bank Limited	Cape Town Branch
	Durban Branch
	Treasury Operations, Sandton
Nedbank Limited	Group Exchange Control – Enterprise Governance and Compliance
	Global Business Centre, Cape Town
	Global Business Centre, Durban
	Global Business Centre, Johannesburg
	Global Business Centre, Paarl
	Global Business Centre, Port Elizabeth
	Nedbank Limited Investor Services
	Nedbank Private Wealth
	Non-Resident and Embassy Banking (NREB) – Johannesburg
	Non-Resident and Embassy Banking (NREB) – Tshwane

Authorised Dealer	Branch or entity appointed as Authorised Bank
	Non-Resident and Embassy Banking (NREB) – Western Cape
	Johannesburg Branch
Société Générale	Johannesburg Branch
Standard Chartered Bank	Johannesburg Branch
The Standard Bank of South Africa Limited	Global Markets, Cape Town
	Global Markets, Durban
	Global Markets, Johannesburg
	Global Markets, Port Elizabeth
	Investor Services, Johannesburg
	Johannesburg IPC Non-Resident Centre

(l) The following Authorised Dealer branches or entities have been appointed as CSDPs in respect of the electronic settlement and custody services provided by STRATE under Regulation 14:

Financial institution	Branch or entity appointed as central securities depositories participant
Citibank, N.A., South Africa	Johannesburg
Computershare Custodial Services	Johannesburg
FirstRand Bank Limited	RMB Corporate Banking – Custody and Trustee Services
Link Investor Services (Pty) Ltd	Johannesburg
Nedbank Limited	Securities and Custodial Services Johannesburg
Corporate and Investment Banking, a Division of The Standard Bank of South Africa Limited	Financial Asset Services Operations, Johannesburg

Financial institution	Branch or entity appointed as central securities depositories participant
Société Générale	Johannesburg
Standard Chartered Bank	Johannesburg

(m) The following Authorised Dealer branches or entities have been appointed as settlement agents of the Central Depository Limited under Regulation 14 in respect of the electronic clearing and settlement system operated by STRATE:

Financial institution	Branch or entity appointed as settlement agent
Citibank, N.A., South Africa	Johannesburg
FirstRand Bank Limited	RMB Custody Services
Nedbank Limited	Securities and Custodial Services Johannesburg
Corporate and Investment Banking, a division of The Standard Bank of South Africa Limited	Financial Asset Services Operations, Johannesburg

(iv) Existing holdings of non-resident owned securities in certificated form

(a) Regulation 14 makes it obligatory for all residents who hold or receive securities on behalf of non-residents to submit such securities to any Authorised Dealer or CSDP in the CMA for non-resident endorsement as indicated in (d) below. The securities must be accompanied by a declaration signed by the holder that the beneficial owner of the securities is permanently resident in the country indicated.

(b) This section applies both to securities registered in the names of non-residents and to those held in the names of nominees, including Authorised Dealers and all other nominee companies.

(c) Regulation 14 precludes any resident from acting as a nominee for a non-resident, unless permission has been obtained from the Financial Surveillance Department. Such permission will normally

be granted only to stockbrokers, banks and other financial institutions. Authorised Dealers and their nominee companies are hereby authorised to act as nominees for non-residents.

(d) Authorised Dealers who are presented with unendorsed securities, will endorse such securities non-resident. The endorsement will be written or stamped in bold letters, not less than five millimetres high, on the top right-hand corner of the security. The endorsement will be authenticated by the stamp of the Authorised Dealer concerned and the signature of one of its authorised officers. It is emphasised that any Authorised Dealer may endorse securities, but that only an Authorised Bank may cancel the endorsement. Cancellations must also be authenticated as indicated above.

(e) The effect of the non-resident endorsement will be to render the securities 'bad delivery' to a resident until the endorsement has been cancelled by an Authorised Bank.

(f) If a non-resident wishes to effect a switch, the security will have to be presented to an Authorised Bank to have the endorsement cancelled. Such cancellation must be signed by an authorised officer of the Authorised Bank concerned.

(g) The Authorised Banks will only cancel the endorsement on the following conditions:

(aa) against the presentation of other locally listed or unlisted securities of an equivalent value as evidenced by brokers' notes or an auditors' certificate confirming the value of the unquoted security, which would then be endorsed non-resident and returned to the broker, buyer or Authorised Dealer controlling the remaining assets of the emigrant;

(bb) against payment to the Authorised Bank, for transfer abroad or for credit of a Non-resident Rand account, of the proceeds of the securities realised, as evidenced by brokers' notes or auditors' certificate confirming the value of the unlisted security; and

(cc) against payment to the Authorised Bank of part of the proceeds for transfer abroad or for credit to a Non-resident Rand account and presentation of other locally listed or unlisted securities, together totalling the equivalent of the value of the securities sold. A non-resident endorsement must be placed on the securities presented.

(h) Funds held in Non-resident Rand accounts are freely transferable and will accordingly be eligible for investment in locally listed and unlisted securities, financial instruments and any other assets on

behalf of such account holder. The funds may be released to a stockbroker or seller against presentation of local securities on which a non-resident endorsement must be placed by the Authorised Bank.

(i) If the value of securities sold on behalf of a non-resident exceeds the value of the new securities purchased, as evidenced by the relative brokers' notes or auditors' certificate, the difference must be deposited with an Authorised Bank for credit of a Non-resident Rand account.

(j) Where the value of securities purchased on behalf of a non-resident exceeds the value of the securities sold, the stockbroker or purchaser must satisfy the bank that the shortfall has been received in foreign currency or 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.

(k) Authorised Banks may permit switches into other locally listed securities. Switches may also be permitted from unlisted securities to listed securities, from listed to unlisted securities, or from unlisted to other unlisted securities. The value of unlisted securities needs to be confirmed by an auditors' certificate in each instance.

(l) Transfer secretaries are also required to endorse securities in certain circumstances and will not be permitted to:

(aa) register securities in the name of a non-resident without endorsing the relative securities non-resident;

(bb) transfer securities out of the name of a non-resident (except to another non-resident), unless the relative securities have been endorsed non-resident and the endorsement cancelled by an Authorised Bank; and

(cc) issue rights to non-residents without endorsing the relative documents non-resident.

(v) Securities purchased by non-residents and not dematerialised or immobilised in a central securities depositories

(a) Authorised Dealers must place an endorsement on securities purchased with funds received in foreign currency or for which payment is made from a Non-resident Rand account (including funds received from an emigrant's capital account). The endorsement will consist of the word non-resident and will be authenticated by the stamp of the Authorised Dealer concerned and the signature of one of its authorised officers. After the endorsement has been annotated, the securities will be returned to the broker, buyer or Authorised Dealer controlling the remaining assets of the

emigrant concerned, whichever is applicable.

(b) If the owner wishes to switch a security endorsed transferable or non-resident into another listed or unlisted security, an Authorised Bank must cancel the endorsement on the security sold and place a non-resident endorsement on the security purchased. This will only be done against confirmation of brokers' notes confirming the value of listed securities or auditors' certificates confirming the value of unlisted securities. When the latter is presented for transfer into the name of a non-resident or his/her nominee, the transfer secretary who signs the security issued to the transferee, must endorse that security non-resident above his/her signature. Securities forming part of an emigrant's remaining assets will be returned to the Authorised Dealer controlling such emigrant's remaining assets for control in terms of the Regulations.

(c) Non-residents may switch their securities as provided for in (iv)(k) above.

(d) In endorsing any security purchased under a switch, the Authorised Bank must ensure that any shortfall is received in foreign currency or 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. Any surplus funds arising from a switch must be credited to a Non-resident Rand account.

(e) A non-resident may sell any CMA securities to another non-resident.

(vi) Initiation of the dematerialisation and immobilisation process and subsequent trading in this environment

(a) All securities traded on the JSE Limited need to be dematerialised or immobilised in the electronic records of the central depositories specifically established for this purpose before they can be rendered 'good delivery'. The residential status of the electronic record (i.e. non-resident or emigrant or resident) will be flagged accordingly by the various participants in the central depository, and linked to the applicable non-resident, emigrant capital or resident accounts in the books of the Authorised Dealer or Authorised Bank concerned.

(b) Only CSDPs would be able to initiate the dematerialisation process in an electronic trading environment. It follows that the initiation of this process in respect of emigrants would need to be the CSDP of the Authorised Dealer controlling the particular emigrant's remaining assets, or the CSDP contracted by such an Authorised Dealer, under the auspices of the controlling Authorised Dealer.

(c) This section applies both to securities registered in the names of non-residents and to those held in the names of nominees, including Authorised Dealers and all other nominee companies. It may further be added that Regulation 14 precludes any resident from acting as a nominee for a non-resident, unless permission has been obtained from the Financial Surveillance Department. Only CSDPs and CSMs are authorised to act as nominees for non-residents, provided that their computer systems comply with the requirements of the JSE Limited or STRATE, depending on the environment in which they operate.

(d) In processing any security purchased by a non-resident under a permitted switch, the relevant Authorised Bank must confirm that the funds needed to settle the trade will be available on the settlement date. The Authorised Bank must ensure that any shortfall is received in foreign currency or 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 and that any surplus funds arising from a switch will be credited to a Non-resident Rand account.

(e) Funds held in Non-resident Rand accounts are freely transferable and will accordingly be eligible for investment in locally listed and unlisted securities, financial instruments and any other assets on behalf of such account holders. The funds may be released to a stockbroker against presentation of a broker's note.

(f) Where a non-resident removes securities or financial instruments that have been dematerialised or immobilised in a CSD to a foreign register, the endorsement and cancellation procedures will not be applicable.

(g) Where a non-resident re-materialises securities or financial instruments that have been dematerialised or immobilised in a CSD or a central depository, the endorsement procedures will again become operative.

(h) To cover the expenses that will necessarily be incurred by CSDPs or settlement agents in maintaining qualified staff to deal with the matters outlined in this section, certain charges may be levied.

(vii) Duties of Authorised Dealers and Authorised Banks

(a) Authorised Dealers

(aa) All certificated securities held by an Authorised Dealer on behalf of a non-resident must be endorsed as prescribed in this section. This applies irrespective of the name in which the shares are registered.

(bb) All non-resident owned certificated securities that are not already endorsed and that are presented to an Authorised Dealer must be endorsed against presentation of the signed declaration referred to therein.

(cc) Declarations need not be completed in respect of endorsed scrip held by an Authorised Bank on behalf of a non-resident.

(dd) On no account may any person other than an authorised officer of an Authorised Bank cancel the endorsement on a certificated security. It follows that switches on behalf of a non-resident from certificated securities where an endorsement needs to be cancelled must be referred to an Authorised Bank.

(ee) With regard to settlement and custody in an electronic environment, there is no difference between the duties of Authorised Dealers and Authorised Banks.

(ff) The computer systems of Authorised Dealers must comply with the requirements of STRATE.

(gg) Authorised Dealers must account for individual securities held by their clients on the resident, non-resident and emigrant platforms of their nominee account with a CSDP.

(hh) They are also required to satisfactorily reconcile the aggregate of their electronic sub-register records per platform (i.e. resident, non-resident and emigrant) on a daily basis with the total of their nominee account.

(ii) When opening an account for a non-resident investor, the Authorised Dealer must ensure that the following indicators are correctly identified:

(1) resident;

(2) non-resident; and

(3) emigrant.

(jj) Authorised Dealers must ensure that a properly styled resident, non-resident, emigrant capital or transferable income account has been linked to the securities account for settlement and corporate action purposes.

(kk) Under no circumstances may Authorised Dealers permit the transfer of securities within a nominee electronic register between local, non-resident and emigrant client accounts, other than for settlement related transfers.

(b) Authorised Banks

(aa) The information below under (cc) to (gg) refers to the existing certificated holdings of non-residents, howsoever, acquired and to securities forwarded to the CMA or acquired as a result of switches.

(bb) The provisions of subsection (A) above apply to Authorised Banks who are also vested with the powers mentioned in the succeeding subsections.

(cc) Authorised Banks may permit switches into unquoted securities.

(dd) The endorsement on non-resident owned securities may be cancelled only on the conditions outlined in (iv)(g) above.

(ee) With regard to (iv)(h) above, Authorised Banks will appreciate that, before releasing funds to a member of the JSE Limited, it is essential for them to endorse the certificated securities presented and to ensure that the latter are of approximately equal value to those sold.

(ff) It is emphasised that endorsements may not be cancelled without the endorsement of other securities of similar value or against credit of the proceeds to a Non-resident Rand account.

(gg) With regard to (v) above, Authorised Banks will appreciate that the non-resident endorsement on a security no longer restricts the transferability of the sale proceeds thereof.

(hh) A security purchased for a non-resident may only be endorsed if the Authorised Bank concerned is satisfied that payment therefore has been received in foreign currency or 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.

(ii) If the owner of a transferable security wishes to sell it and purchase another, an Authorised Bank must place a non-resident endorsement on the security purchased and must:

(1) satisfy itself that the security sold was endorsed by an Authorised Bank or by the transfer secretary whose signature appears at the foot of the security; and

(2) cancel the endorsement on the security sold.

(jj) All income due on securities owned by non-residents is transferable to countries outside the CMA.

(kk) Except with the authority of the Financial Surveillance Department, advances may not be made against securities owned by non-residents.

(ll) Securities owned by non-residents may not be exported, unless they have been endorsed 'Non-Resident'.

(viii) Duties of central securities depository participants and settlement agents

(a) The role of CSDPs and settlement agents is that of a custodian and to perform clearing and settlement services by interfacing with STRATE.

(b) The computer systems of CSDPs and settlement agents must comply with the requirements of the JSE Limited or STRATE, depending in which environment they operate.

(c) CSDPs and settlement agents are involved in the settlement process, as trades are eligible for settlement only if the trades have been confirmed or committed to by the CSM, CSA or CSDP and the settlement agent, which the instance requires.

(d) CSDPs must account for individual securities held by their clients on the 'Resident' or 'Non-Resident' or 'Emigrant' platforms.

(e) CSDPs and settlement agents are also required to satisfactorily reconcile the aggregate of their electronic records per platform (i.e. 'Resident' or 'Non-Resident' or 'Emigrant') on a daily basis with the CSD operated by STRATE.

(f) CSDPs and settlement agents may permit switches into unlisted securities.

(g) All income due on securities owned by non-residents is transferable to countries outside the CMA.

(h) Advances against securities may not be made without the prior written approval of the Financial Surveillance Department.

(i) Certificated securities owned by non-residents may not be exported, unless they have been endorsed 'Non-Resident'.

(j) Securities owned by non-residents may be transferred free of value between CSDPs for the account of the same non-resident or for the account of another non-resident under the following conditions:
(aa) that the delivering CSDP advises that the transfer constitutes non-resident owned securities;

(bb) that the receiving CSDP ensures that the securities deposited to a non-resident share account and that either no change of beneficial ownership takes place or non-resident funds have moved elsewhere in terms of the transaction;

(cc) where such a transaction is initiated by a member of the JSE Limited, the onus will be on the member to prove that the transaction is effected in terms of the provisions of the Authorised Dealer Manual and that proof of this should be provided to both the receiving and delivering CSDPs; and

(dd) where an American depository receipt (ADR) transaction is initiated by a member of the JSE Limited , the onus will be on the member to prove that the transaction is in terms of the Authorised Dealer Manual and that proof of foreign currency movement should be provided to the CSDP.

(k) When opening an account for an investor, the CSDP must ensure that the following indicators are correctly identified:

(aa) resident;

(bb) non-resident; and

(cc) emigrant.

(ix) Duties of members of the JSE Limited

(a) Dealing with listed securities where the securities are in certificated form

(aa) In terms of the provisions of Regulation 14, members of the JSE Limited receiving securities in certificated form from or on behalf of a non-resident must immediately have the securities endorsed non-resident by an Authorised Dealer.

(bb) This applies also to securities purchased on behalf of a non-resident, even if the securities are to be registered in the name of the broker as nominee and to any securities bearing an address outside the CMA, whether the securities are to be dealt in or not.

(cc) Members of the JSE Limited should on no account deal in any way with unendorsed securities in which they know or have reason to believe a non-resident has an interest.

(dd) When requested by a non-resident to sell any security, the proceeds must either be used to purchase another locally listed security or be deposited with an Authorised Bank for

transfer abroad or for credit of a Non-resident Rand account in the name of the non-resident. The conditions governing dealings on behalf of non-residents are set out more fully in this section of the Authorised Dealer Manual.

(ee) Members are required to ensure that all securities introduced by a non-resident client into a non-resident share account are in fact non-resident securities by verifying that the securities bear a non-resident endorsement or that the securities have been transferred from another non-resident share account.

(ff) Members are required to ensure that where residents emigrate from the CMA their remaining assets are brought under the administration of an Authorised Dealer.

(b) Dealing with listed securities where the securities have been dematerialised or immobilised in a central depository

(aa) After a transaction has been concluded with a non-resident or emigrant or resident party, brokers' notes must be sent to both the client and their nominated CSDP.

(c) General

(aa) Members of the JSE Limited should at all times strictly adhere to these requirements to prevent the objectives of securities control being defeated.

(bb) When in any doubt, members must consult an Authorised Bank or the Director of Surveillance, the JSE Limited. Reference to the Financial Surveillance Department should be via an Authorised Dealer.

(x) Duties of transfer secretaries

(a) Regulation 14 restricts dealings in securities belonging to non-residents, except on the conditions prescribed by the Treasury, whose powers under this regulation have been delegated to the Financial Surveillance Department. Except with permission (which must be obtained from an Authorised Dealer who will, in need, refer to the Financial Surveillance Department), no person may:

(aa) register the transfer of any security in which a non-resident has an interest;

(bb) change the address of a non-resident, except to another non-resident address;

(cc) register a South African address if the owner is a non-resident; or

(dd) transfer a non-resident entry from the foreign section of a register to the South African section of the register or vice versa.

(b) This section of the Authorised Dealer Manual deals with the prescribed conditions upon which the acts specified in Regulation 14 may be performed by transfer secretaries and the duties that devolve upon them. In general:

(aa) no transfer of securities may be effected to or from a non-resident without the approval of an Authorised Bank or CSDP;

(bb) no securities in certificated form or right to purchase securities may be issued to, or for account of, a non-resident unless the documents are endorsed non-resident;

(cc) any request to change the address of a non-resident, except to another non-resident address, requires the prior written approval of the Financial Surveillance Department;

(dd) it is possible that some securities in certificated form owned by non-residents may not be presented for endorsement, but if transfer secretaries receive, for any purpose, unendorsed securities in certificated form in the names of persons whose addresses are shown in the register as being outside the CMA, they should immediately hand the securities to an Authorised Dealer for endorsement;

(ee) transfer secretaries may transfer securities in certificated form from one non-resident to another non-resident, provided that they place a non-resident endorsement on the security in the name of the transferee;

(ff) transfer secretaries may transfer securities in certificated form from a resident to a non-resident only if the transferee's security is endorsed non-resident;

(gg) transfer secretaries may not transfer securities in certificated form from a non-resident to a resident unless the transferor's security bears a 'Non-Resident' endorsement and the endorsement has been cancelled by an Authorised Bank. No non-resident endorsement must be placed on the security issued to the resident. A transfer from a non-resident to a local nominee acting for the same non-resident, where no change of ownership is involved, is not regarded as a transfer from a non-resident to a resident. Transfer secretaries may, therefore, effect such transfers without reference to an Authorised Bank, provided that they place a 'Non-Resident' endorsement on the new security issued in certificated form;

(hh) forms of acceptance in certificated form, in respect of non-residents, must be endorsed 'Non-Resident', before issue. Securities (including letters of allocation, letters of allotment, option certificates, balance receipts and any other receipts for securities) may not be issued to a non-resident, or to a person known to be his/her nominee, without the approval of an Authorised Bank, who will indicate that the purchase price has been received in foreign currency or 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. The securities must be endorsed 'Non-Resident';

(ii) where non-resident endorsed securities are received for splitting or replacement without change of ownership, transfer secretaries must endorse the new securities 'Non-Resident' as well;

(jj) all non-resident endorsements by transfer offices must be authenticated by the signature of the authorised official of the transfer secretary concerned;

(kk) transfer secretaries must in the following instances ensure that the original securities in certificated form are surrendered prior to issuing new securities in their stead:

(1) change of name;

(2) subdivision or consolidation of shares;

(3) participation in a reconstruction or merger; and

(4) buy-out and in lieu of cash, new shares are issued to the original shareholders; and

(ll) where a transfer secretary is requested by a CSDP to rematerialise for a non-resident, the transfer secretary may produce a certificate, provided that such certificate is endorsed 'Non-Resident'.

(B) Financial Surveillance Department requirements relating to the JSE Limited

Note: (i) to (vii) below, only apply to South African registered and domiciled companies with South African primary listings.

(i) The listing of a South African registered company on the JSE Limited:

(a) Authorised Dealers may, on application to them, permit the listing of a South African registered company, excluding a bank and/or a bank holding company, on the JSE Limited, provided that they are fully satisfied that the following clause is incorporated in the prospectus:

"In terms of the Exchange Control Regulations of South Africa:

1. a former resident of the Common Monetary Area who has emigrated, may use funds in the emigrant capital account to subscribe for shares in terms of this prospectus;

2. all payments in respect of subscriptions for shares by an emigrant, using funds from an emigrant's capital account, must be made through the Authorised Dealer controlling the remaining assets;

3. any shares issued pursuant to the use of funds from emigrant's capital account, will be credited to their share accounts at the central securities depository participant controlling their remaining portfolios;

4. shares subsequently re-materialised and issued in certificated form, will be endorsed 'Non-Resident' and will be sent to the Authorised Dealer through whom the payment was made; and

5. if applicable, refund monies payable in respect of unsuccessful applications or partly successful applications, as the case may be, for shares in terms of this prospectus, emanating from emigrant capital accounts, will be returned to the Authorised Dealer through whom the payments were made, for credit to such emigrants' capital accounts.

Applicants resident outside the Common Monetary Area should note that, where shares are subsequently re-materialised and issued in certificated form, such share certificates will be endorsed 'Non-Resident' in terms of the Exchange Control Regulations."

(b) Authorised Dealers should, however, ensure that nothing is stated in the prospectus that is contrary to the provisions of the Authorised Dealer Manual or a specific authority granted by the Financial Surveillance Department, prior to the granting of any authority in

this regard.

(ii) Capitalisation issues

Authorised Dealers may, on application, permit capitalisation issues, provided that they are fully satisfied that the following clauses, where applicable, are incorporated in the circular to shareholders:

(a) Capitalisation award emanating from a share premium account

"In terms of the Exchange Control Regulations of South Africa:

1. any share certificates that might be issued to non-resident shareholders will be endorsed 'Non-Resident';

2. any new share certificates, dividend and residual cash payments based on emigrants' shares controlled in terms of the Exchange Control Regulations, will be forwarded to the Authorised Dealer controlling their remaining assets. The election by emigrants for the above purpose must be made through the Authorised Dealer controlling their remaining assets. Such share certificates will be endorsed 'Non-Resident'; and

3. dividend and residual cash payments due to non-residents are freely transferable from South Africa."

(b) Capitalisation award emanating from distributable reserves

"In terms of the Exchange Control Regulations of South Africa:

1. any share certificates that might be issued to non-resident shareholders will be endorsed 'Non-Resident';

2. any new share certificates issued based on emigrants' shares controlled in terms of the Exchange Control Regulations, will be forwarded to the Authorised Dealer controlling their remaining assets. Such share certificates will be endorsed 'Non-Resident'; and

3. dividend and residual cash payments are freely transferable from South Africa."

(iii) Reverse listings

(a) Authorised Dealers may on application permit reverse listings, provided that the requirements of subsection (F) below are adhered to, where applicable.

(iv) The issue of shares for cash

(a) Authorised Dealers may on application permit the issue of shares for cash, provided that the requirements of subsection (F) below are adhered to, where applicable.

(b) The use of any proceeds for investments outside the CMA requires the prior written approval of the Financial Surveillance Department.

(v) Rights issues or claw-back offers by listed companies

(a) Authorised Dealers may on application permit rights issues or claw-back offers by listed companies, provided that the following clause is incorporated in the circular to shareholders:

"In terms of the Exchange Control Regulations of South Africa, non-residents of the Common Monetary Area will be allowed to:

(1) take up rights allocated in terms of the offer;

(2) purchase letters of allocation on the JSE Limited;

(3) subscribe for new ordinary shares arising from letters of allocation purchased on the JSE Limited ; and

(4) purchase excess shares that have been applied for in terms of the offer (if applicable);

provided that payment is received in foreign currency or in 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.

All applications by non-residents for the above purposes must be made through an Authorised Dealer. Shares subsequently re-materialised and issued in certificated form, will be endorsed 'Non-Resident'.

Where a right in terms of the offer falls due to a former resident of the Common Monetary Area, which right is based on shares controlled in terms of the Exchange Control Regulations, only funds in the emigrant's capital account may be used to take up this right. In addition, such funds may also be used to:

(1) purchase letters of allocation on the JSE Limited;

(2) subscribe for new ordinary shares arising from the letters of allocation purchased on the JSE Limited; and

(3) purchase excess shares that have been applied for in terms of the offer (if applicable).

Applications by emigrants to use funds in their capital account for the above purposes must be made through the Authorised Dealer controlling their remaining assets. Any shares issued pursuant to the use of funds in the emigrant capital account will be credited to their share accounts at the central securities depository participant controlling their remaining portfolios. The sale proceeds of letters of allocation, if applicable, will be returned to the Authorised Dealer for credit to such emigrants' capital accounts."

(b) The use of proceeds for investments outside the CMA requires the prior written approval of the Financial Surveillance Department.

(vi) The acquisition by non-residents of a 'cash company'

(a) Authorised Dealers may, on application, permit the acquisition by non-residents of a 'cash company', provided that the requirements of subsection (F) below are adhered to, where applicable.

(vii) The acquisition from or disposal to a non-resident of assets by a listed company

(aa) Authorised Dealers may on application permit the acquisition from or disposal to a non-resident of assets by a listed company, provided that the requirements of subsection (C) below are adhered to.

(viii) Authorised Dealers are referred to the listings requirements of the JSE Limited, which require the prior written approval of the Financial Surveillance Department before the JSE Limited gives approval in respect of the following transactions:

(a) the listing of a bank and/or bank holding company;

(b) the issue of bearer securities;

(c) restructures, mergers and changes in control where non-residents are involved;

(d) the listing of a quoted South African company on a foreign stock exchange;

(e) the listing of an external company on the JSE Limited;

(f) the listing of warrants;

(g) the issue of hedge securities;

(h) the delisting of a company listed on the JSE Limited;

(i) the declaration of a dividend in specie or special dividend, for any purpose; and

(j) the elimination of so-called 'odd lot' minority shareholders through the mechanism of consolidations and/or subdivisions of share capital.

(ix) Authorised Dealers are advised that the JSE Limited is now also in a position to facilitate the issuance of debt instruments. The terms and conditions pertaining to dealings by non-resident clients in these instruments are incorporated in the relevant exchange's rules and regulations.

(C) South African assets owned by non-residents

(i) Non-residents may freely invest in South Africa, provided that suitable documentary evidence is viewed in order to ensure that such transactions are concluded at arm's length, at fair market related prices and are financed in an approved manner. In this regard, such financing must be in the form of the introduction of foreign currency, 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 or in terms of the provisions of section I.1 of the Authorised Dealer Manual. The creation of any loan account between a resident and a non-resident would require the prior written approval of the Financial Surveillance Department.

(ii) The local sale or redemption proceeds of non-resident owned assets in South Africa may be regarded as freely transferable. Such proceeds may also be freely used in the CMA by non-residents for investment and other purposes, and may accordingly be credited to Non-resident Rand accounts. The provisions of subsection (D) below should be noted.

(iii) Stockbrokers may not retain, uninvested in their possession, the cash proceeds of securities sold on behalf of non-residents. Such funds must be paid to the credit of a Non-resident Rand account with an Authorised Bank with whom each stockbroking firm may, for this purpose, maintain a single Non-resident Rand account in its own name to handle the share transactions of non-resident clients.

(D) Investments by non-residents in South African debt securities

(i) In view of the multiplicity of debt securities (debt instruments) on offer, largely as a result of the securitisation of many forms of debt or assets, Authorised Dealers and their corporate clients are advised to seek the guidance and/or the prior written approval of the Financial Surveillance Department before issuing, listing and/or purchasing any form of debt security, other than those specifically dealt with in this subsection.

(ii) Non-resident investors may subscribe to and/or purchase government, municipal and public utility stocks.

(iii) Non-resident investors may subscribe to and/or purchase short-term money market bearer or negotiable instruments such as treasury bills, parastatal project bills, bankers acceptances, promissory notes and negotiable certificates of deposit.

(iv) These securities must remain in the custody of the non-resident's local Authorised Bank until such time as these are sold or redeemed.

(v) Rates of interest or discount rates earned by the non-resident investor must equate to the money market rate ruling for such a security at the time of purchase.

(vi) Authorised Banks are exempted from the provisions of Regulation 15 (1), (2) and (3), provided that the terms and conditions of this subsection are strictly complied with.

(vii) Emigrants may utilise funds in their capital account to subscribe to and/or purchase stocks and/or short-term money market bearer or negotiable instruments of the above nature on the same terms and conditions as set out above. The sale or redemption proceeds are not eligible for transfer abroad and must be credited to the emigrants' capital accounts. Only interest earned or any discount obtained, as against that purchased, is eligible for transfer abroad or may be placed to the credit of a Non-resident Rand account. The provisions of section B.3(B) of the Authorised Dealer Manual would, however, continue to apply.

(viii) The local issue, listing and/or purchase of the following debt securities require the prior written approval of the Financial Surveillance Department:

(a) Subscription to and/or purchase of zero coupon bonds

(aa) A deep discount security is a bond that makes low or, in the case of a zero coupon bond, no periodic interest payments and is, therefore, sold at a large discount to its nominal value. The buyer of such a bond receives a rate of return from the gradual appreciation of the security, which is redeemed at nominal value on a specified maturity date.

(b) Subscription to and/or purchase of stripped treasury certificates

(aa) Stripped treasury certificates are a type of zero coupon bond, but are not issued by a corporate entity to raise funds. They are usually created by an investment (merchant) bank buying blocks of long-term securities issued by the government (treasury stocks) and separating (stripping) the future coupon

payments and principal redemption values. Usually a special purpose vehicle is set up to carry out the stripping. Zero coupon bonds are then issued by the special purpose vehicle with maturity values determined by and secured on the coupons and redemptions of the underlying treasury stocks. The treasury stocks are held in trust by a custodian bank which collects the coupons to pay off each tranche of the zero coupon bonds. The final tranche is redeemed out of the redemption value of the block of treasury stocks.

(c) Subscription to and/or purchase of foreign currency or index linked debt instruments

(aa) The active swap market has facilitated the issue of a large number of debt instruments which have some of the following features:

(1) interest payments denominated in a currency other than that of redemption;

(2) redemption in a currency other than that of issue;

(3) redemption values linked to index values such as stock exchange indices;

(4) interest and/or redemption values linked to commodity prices; and

(5) interest payments in a range of currencies.

(d) Subscription to and/or purchase of asset backed securities

(aa) With asset backed securities, specific assets serve as collateral for the securities and generate the payment streams that are used to finance the payment of interest and principal to the investors in the security (debt instrument). Typically, the issuer cannot easily convert assets into cash, and the assets are then securitised.

(bb) In general, any receivable that has a contractual cash flow is potentially suitable for securitisation. Assets to be securitised or unitised must have some, if not all, of the following characteristics:

(1) the cash flow generated from the assets should be received periodically in accordance with a predetermined schedule;
(2) the actual cash flows generated from the assets should be predictable, or statistics should be available for their expected performance (e.g. a history of defaults and

prepayments);

(3) the assets should be large enough in number and total value for it to be economical to issue them in securitised form;

(4) there should be sufficient similarity in the characteristics of the assets (e.g. the final maturity date) so that their cash flows can be pooled; and

(5) the assets should be of good saleable quality (i.e. there is a low risk of default) or some form of credit enhancement may be required (e.g. a guarantee).

(cc) There are two basic forms of asset backed securities. The choice of structure is generally regulatory and tax-driven. The first form is usually referred to as pass-through securities, which are sold to investors who receive participation certificates. The payments of both interest and capital received by the issuer from the pool of assets are passed through directly to the investors in proportion to their participation.

(dd) The second form is the issue of asset backed bonds structured as a financing transaction. Debt securities are issued which are backed by collateral (i.e. the assets). The cash flows generated from the assets are not passed directly through to investors, but are used to pay coupon interest on the bonds and then redeem principal in a predetermined order. The pool of assets will often have been sold to a special purpose vehicle, which will in turn issue the securities. The special purpose vehicle may or may not be a subsidiary of the original owner.

(E) Advances to non-residents

(i) Advances, including those in respect of securities dealings

Advances, including those in respect of securities dealings, except where it is permissible in terms of the Authorised Dealer Manual, may not without the specific authority of the Financial Surveillance Department be granted to non-residents against the pledge of such securities or against any other form of security.

(ii) Switch transactions

In switch transactions, however, where a stockbroker simultaneously sells one security for a non-resident and buys another, credit may be allowed on a purely temporary basis to bridge the gap pending receipt of payment for the security sold. Such facilities must be regarded as valid for the interim period only and may not be unduly protracted.

(iii) Repurchase agreements

(a) A repurchase transaction, also known as a carry deal, is an agreement whereby one party (known as the seller-borrower) sells a security to the other party (the buyer-lender) with a simultaneous agreement to repurchase the security at a fixed future date at a stipulated price. While the legal form of the transaction is a sale and a repurchase, in substance the seller-borrower borrows the proceeds of the sale from the buyer-lender and deposits the securities as collateral. The difference between the sale and repurchase price of the security is essentially an interest cost to the seller-borrower.

(b) Repurchase transactions entered into with a non-resident seller-borrower counter party are deemed to be a form of financial assistance and therefore subject to the provisions of Regulation 3(1)(e) and (f).

(c) Authorised Dealers may, however, enter into repurchase transactions with a non-resident seller-borrower, provided that such transactions are fully secured either by providing cash cover in Rand or the pledge of unencumbered non-resident owned local assets. Any additional margin requirements are to be provided similarly.

(d) The aforementioned provisions would also apply to any repurchase transactions undertaken by an Authorised Dealer with emigrant seller-borrower counterparties in respect of their remaining portfolios.

(e) Authorised Dealers are exempted from the provisions of Regulation 3(1)(e) and/or (f), provided that the terms and conditions of this subsection are strictly complied with.

(f) The interest factor or cost of the carry may be settled in foreign currency or over a Non-resident Rand account, provided that the rate is reasonable having regard to current interest rates. In the case of emigrants the provisions of section B.3(B) of the Authorised Dealer Manual would, however, continue to apply. All other cash flows related to repurchase transactions would be settled over the Non-resident Rand account or emigrant's capital account of the non-resident or emigrant concerned.

(iv) Securities lending

(a) Securities lending is the transfer of ownership of a locally quoted security, including inward listed securities from a lender to a borrower in exchange for collateral of an agreed type and for an agreed value. The transaction is accompanied by a pledge from the borrower to the lender to reverse the transaction at a future date by the redelivery of equivalent locally quoted securities. Collateral is usually required by lenders to cover the counter party risk involved in securities lending. Loans of locally quoted securities can be made either on a fixed term or on an open-ended (or call) basis. Open-ended loans will continue until either the lender or the borrower decides to terminate the loan. In both cases, on termination, the lender will ordinarily receive back from the borrower locally quoted securities of a similar kind to those lent and in exchange the lender will return the borrower's collateral. For the period of the loan the lender retains all the rights attached to the locally quoted securities lent, except the right to vote. Thus all dividends and corporate action entitlements pass back to the lender through the borrower.

(b) Securities lending transactions entered into with a non-resident counter party are deemed to be either a form of financial assistance to the non-resident borrower and therefore subject to the provisions of Regulation 3(1)(e) and/or (f) or a borrowing by a resident from a non-resident lender which is subject to the provisions of Regulation 2, amongst others.

(c) Authorised Dealers may, however, enter into securities lending transactions with a non-resident borrower, provided that such transactions are fully secured by cash cover in Rand, the transfer of unencumbered non-resident owned local collateral securities or the pledge of unencumbered non-resident owned local assets. Similarly, securities lending transactions with a non-resident lender must be fully secured by cash cover in Rand, the outright transfer of unencumbered resident owned local collateral securities or the pledge of local assets. Any additional margin requirements are to be provided on the same basis. The securities in question may not be held outside of South Africa and both legs of any transfer of securities as collateral must be administered by a South African resident custodian.

(d) The aforementioned provisions would also apply to any securities lending transactions undertaken by an Authorised Dealer with emigrant lender or borrower counterparties in respect of their remaining portfolios.

(e) Authorised Dealers are exempted from the provisions of Regulations 3(1)(e) and/or (f) and/or Regulation 2, provided that the terms and conditions of this subsection are strictly complied with.

(f) The interest factor or lending fee accruing to the lender may be settled in foreign currency or over a Non-resident Rand account, provided that the rate is reasonable having regard to current interest rates. In the case of emigrants the provisions of section B.3(B) of the Authorised Dealer Manual would, however, continue to apply. All other cash flows related to securities lending transactions would be settled over the Non-resident Rand account or emigrant's capital account of the non-resident or emigrant concerned.

(F) Endorsement

(i) For the guidance of Authorised Dealers and to assist them in the administration of securities control, certain further aspects relative to endorsements are clarified below:

(a) Non-resident interest of any nature

(aa) Obligation to endorse

Certificated securities in which there is a non-resident interest of any nature whatsoever must be endorsed 'Non-Resident' and it is the duty of any transfer secretary or Authorised Dealer to whom the securities are presented to immediately procure such an endorsement. Any new shares issued in certificated form based on emigrants' shares controlled in terms of the Regulations will be forwarded to the Authorised Dealer controlling their remaining assets.

(bb) Domicile of investor

It should be noted that the current form of restrictive endorsement is 'Non-Resident', although historically certain securities may bear the endorsement 'Transferable'. The country of domicile of the investor must not be added to an endorsement.

(b) Residents of the CMA - Foreign address

(aa) Endorsement and removal

A resident of the CMA may not register an address outside the CMA and any securities currently held at an address outside the CMA are subject to immediate tainting by endorsement. Such occurrences must in each instance be referred to the Financial Surveillance Department together with full and precise details of the circumstances pertaining thereto.

(bb) Certificate of ownership at 1961-06-16

Attention is drawn to the fact that on the introduction of securities control in 1961, Authorised Dealers and members of the JSE Limited were at that stage authorised to place on the face of securities owned by residents and registered at a foreign address a certificate in the following form:

"Certified under authority of the South African Reserve Bank that the beneficial owner of these shares on 16 June 1961, was a resident of the Republic of South Africa.

Date ....
Signature (of Authorised Dealer or Broking Member of the JSE Limited)."

(cc) The certificate in (bb) above may be taken by Authorised Banks as sufficient evidence to warrant a removal of the endorsement, provided that the owner is still a resident and that the registered address of the shareholder is changed to one within the CMA.

(c) Bonus shares

(aa) Bonus shares issued to non-residents must be endorsed 'Non-Resident'.

(d) Government, municipal and public utility stocks

(aa) Non-resident owned stock is subject to the same endorsement requirements as applicable to any other securities.

(e) Shares of foreign companies quoted on the JSE Limited

(aa) The shares of companies registered outside the CMA that are quoted on the JSE Limited are subject to the same endorsement and other restrictions as applicable to CMA shares when traded locally on behalf of non-residents.

(f) Documents of title other than scrip

(aa) While the terms 'scrip' and 'share certificates' are used in general terms, the intention is that any other temporary or substitute documents of title such as letters of allocation, letters of allotment, option certificates, balance receipts and other receipts for scrip, are subject to the same endorsement and other restrictions as applicable to securities.

(G) Export of securities

(i) The purchase and export of securities, particularly bearer securities, is a possible means by which residents may circumvent Financial Surveillance Department requirements. Authorised Dealers should accordingly exercise special care in handling securities transactions in which it appears that a non-resident may have an interest.

(a) Export by non-residents

(aa) Authorised Dealers may permit the export of certificated securities owned by non-residents (except where such shares form part of an emigrant's remaining assets), provided that they ensure that the certificates are first endorsed 'Non-Resident'.

(b) Re-export by transfer secretaries

(aa) Transfer secretaries may re-export certificates sent to them by non-residents solely for registration, splitting or marking. Before returning such certificates, however, it is incumbent on the transfer secretary concerned to ensure that they are endorsed 'Non-Resident'.

(c) Export of securities acquired in switch deals

(aa) Where a non-resident in a switch deal simultaneously sells one security locally and buys another, Authorised Dealers may, as an exceptional case and at their discretion, after endorsing the scrip as 'Non-Resident', authorise the export of the new security bought before receipt from abroad of the security sold. In these cases Authorised Dealers must keep adequate records to ensure that the securities sold are ultimately presented to them. Copies of brokers' notes substantiating details of the transactions must be called for.

(H) Address

(i) The address at which securities are registered is of particular importance in the administration of securities control and Authorised Dealers should be vigilant when handling applications involving any change of address.

(a) Deceased estates outside the CMA

(aa) Transfer secretaries may, without the specific authority of the Financial Surveillance Department, record a change of address in their registers from the foreign address of the deceased, or the foreign estate, to the address of a resident executor or agent appointed to act for the non-resident estate. This concession only applies where the beneficial ownership remains non-resident and the executors or agents merely act

on behalf of such owners. The securities must retain the non-resident endorsement.

(b) Nominees

(aa) Under the provisions of subsection (A)(x) above, a change from a non-resident address to the address of a local nominee acting for a non-resident may be effected by a transfer secretary without specific authority because, in this case, the beneficial ownership remains consistently non-resident. The certificates must therefore retain the non-resident endorsement.

(c) Address in South Africa

(aa) Authorised Dealers may permit the registration of an address in South Africa by a non-resident after the relative securities have been endorsed 'Non-Resident'.

(d) Foreign companies with offices in South Africa - Change of ownership and address

(aa) In no instance may a change of ownership and address of securities from an office of an issuer outside South Africa to an office of an issuer within South Africa be recorded without the specific prior written approval of the Financial Surveillance Department.

(e) Duties of transfer secretaries

(aa) Except in the cases mentioned in the preceding paragraphs, a transfer secretary may not record a change of address from resident to non-resident or from non-resident to resident on any register maintained in South Africa, whether it be a principal, duplicate or branch register and whether the relative advice is received in South Africa or by an office outside South Africa, without the authority of an Authorised Dealer.

(I) Income

(i) Income due to non-residents

(a) Income due to non-residents on their securities must be paid to their registered address.

(b) Non-residents may, however, if desired, receive dividend payments in South Africa and no formal authority would subsequently be required from the Financial Surveillance Department if the non-resident decides to change the place of payment to that of his/her appropriate registered address.

(c) Such dividend and income payments are subject to the provisions of section B.3(C) of the Authorised Dealer Manual.

(ii) Income due to residents

(a) Residents may under no circumstances have dividends paid outside the CMA without specific prior written approval from the Financial Surveillance Department.

(J) Emigrants, immigrants and deceased estates

(i) Emigrants

(aa) Emigrants may not record a non-resident address in respect of any securities that form part of their remaining assets on emigration. Such securities may not be exported and must remain under the control of an Authorised Dealer.

(ii) Immigrants

(a) Purchase abroad of South African quoted securities

(aa) Immigrants who have been accorded the concessions laid down in section B.5(B)(ii) of the Authorised Dealer Manual may within five years after their arrival, invest their foreign funds in or switch other foreign investments owned by them into South African securities abroad.

(b) Cancellation of the non-resident endorsement on South African securities

(aa) Immigrants may transfer their foreign assets to South Africa by way of locally quoted securities and Authorised Dealers must, in such instances, grant authority to Authorised Banks to cancel non-resident endorsements on such scrip. Such scrip must be transferred to the South African Register and a local address must be registered. Should South African quoted

securities acquired abroad be introduced by an immigrant for sale on the JSE Limited, the resultant sale proceeds must be credited to a resident account.

(c) Emigration within five years

(aa) South African securities physically introduced and retained or purchased locally by immigrants who leave the country within five years of arrival may be exported on departure, provided that they have completed the necessary declaration and undertaking as outlined in section B.5(B)(i)(a) of the Authorised Dealer Manual.

(d) Former residents of the CMA

(aa) The facilities outlined above may not be accorded to any person who has previously resided in the CMA. Any requests received from such persons should be referred to the Financial Surveillance Department.

(iii) Deceased estates

(a) Securities in estates of persons who at time of death were permanently resident in South Africa

(aa) Cash transfers by executors to non-resident legatees are permissible subject to the conditions laid down in section B.2(K) of the Authorised Dealer Manual. Executors may, prior to the submission and approval of the Liquidation and Distribution accounts, sell any securities in the estate and then, after the accounts have been passed, transfer the cash to the non-resident heirs.

(bb) Where South African securities in the estate are specifically bequeathed to a non-resident legatee, such securities should be endorsed ‘Non-Resident’ and may thereafter be exported to the legatee.

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

(b) Securities forming part of the estate of persons who at the time of death were non-resident

(aa) South African securities forming part of the South African estates of non-residents, which are bequeathed to beneficiaries outside South Africa, remain non-resident assets and may be dealt with accordingly.

(K) Dealings by residents on foreign stock exchanges

(i) Sales

(a) South African securities may be exported by residents for sale abroad only through the medium of an Authorised Dealer, whose duty it will be to ensure that the sale proceeds are repatriated to South Africa.

(ii) Purchases

(a) Residents are not permitted to purchase securities abroad, except as permitted in section B.2(B) to (I) of the Authorised Dealer Manual. Certain arrangements are, however, in force providing for controlled dealings by stockbrokers. Details of these arrangements are set out in (iii) below.

(iii) Arbitrage

(a) Finance switch transactions

(aa) There is no differentiation of a restrictive nature against arbitrage dealings by stockbrokers with or on behalf of non-residents, as compared with other dealings in this respect.

(bb) Authorised Banks must submit the names of foreign arbitrageurs, as well as the individual limits of the relevant Non-resident Rand account, to the Financial Surveillance Department for prior written approval, adding their recommendation for acceptance or stating reasons why recommendation is being withheld.

(cc) Shares subsequently re-materialised must be endorsed 'Non-Resident' and sent to the Authorised Dealer through whom the payment was made.

(dd) It is emphasised that this facility is subject to review on an annual basis and any abuse of the spirit and conditions of this arrangement will result in its immediate withdrawal from the parties concerned.

(ee) For export of these securities see subsection (G)(i)(c) above.

(b) Joint accounts between resident and non-resident stockbrokers

(aa) Joint accounts between resident and non-resident stockbrokers should be regarded as non-resident and subject to the securities control requirements.

(bb) Applications to settle profits and/or losses due to the foreign party to such joint accounts on four-way arbitrage deals for completed delivered transactions must be submitted to the Financial Surveillance Department quarterly. Copies of the joint accounts concerned must accompany these applications.

(iv) Primary listings offshore

(a) Authorised Dealers may submit requests by major corporates to establish primary listings offshore. The following guidelines will, inter alia, be taken into account:

(aa) foreign expansion is necessary and integral to the company, given its size and the nature of its business;

(bb) a significant proportion of revenue is derived from outside South Africa, making the company in effect an international concern;

(cc) there are clear monetary and balance-of-payments benefits to South Africa;

(dd) a substantial advantage can be demonstrated over alternative approaches to raising the required capital;

(ee) the direct and indirect South African assets may not be encumbered;

(ff) South Africa's reserves may not be negatively impacted by an outflow of dividends or any other funds;

(gg) the corporate involved must commit itself to match any dividends declared to the foreign holding company with dividends paid out to South African shareholders to preserve balance-of-payments neutrality; and

(hh) all the South African operations and assets of the South African corporate or the proceeds thereof, as well as any other cash holdings, must remain in South Africa and may only be exported from South Africa if payable pro-rata to the non-resident shareholders of the listed holding company with the prior written approval of the Financial Surveillance Department.

(v) Offshore secondary listings and depository receipt programmes

(a) Authorised Dealers may permit South African listed companies, to secondary list on foreign exchanges and/or list depository receipt programmes in the offshore market, subject to receiving the following confirmations:

(aa) admission to trade on the offshore exchange;

(bb) the shares/securities will be traded for cash only to non-residents and qualifying institutional investors subject to their prudential limits;

(cc) South African residents will hold their shares and/or securities and settle via the JSE Limited register, whereas non-residents will hold and settle their shares and/or securities via the offshore secondary register;

(dd) the proposed shares and/or securities comprising the secondary listing will form part of the locally listed company's share capital;

(ee) South Africa must remain the place of effective management for the locally listed company and under no circumstances may the company re-domicile;

(ff) the locally listed company will continue to be regulated in accordance with the rules and regulations of the JSE Limited; and

(gg) the locally listed company will remain a South African incorporated company.

(b) The locally listed company must furnish the Authorised Dealer with information regarding the ratio between the company's shares listed on the JSE Limited and the offshore exchange as a proportion of the locally issued shares. In addition, the envisaged percentage non-resident shareholding in the local company post the secondary listing on the foreign exchange must be provided.

(c) Authorised Dealers must report annually to the Financial Surveillance Department details of the above-mentioned authorities granted.

(L) General

(i) Nominees for non-residents

(a) Authorised Dealers and their nominee companies are authorised to act as nominees. Any other person or company (including stockbrokers and trust companies) must obtain, through their bankers, the prior written approval of the Financial Surveillance Department to act in this capacity.

(ii) Brokerage rebates due to non-resident stockbrokers

(a) Brokerage rebates due to a non-resident stockbroker by a resident stockbroker, in terms of the rules of the JSE Limited, may be transferred abroad against documentary evidence confirming the amount involved.

(M) Bearer securities

(i) Regulations

(a) The attention of Authorised Dealers is drawn to the provisions of Regulation 15, which prohibits the issue of, or any dealing in, bearer securities or bearer options, without the specific prior written approval of the Treasury.

(ii) Conditions of issue - Share or stock warrants to bearer

Note: The term ‘bearer warrants’ used in this statement refers to both share warrants to bearer and stock warrants to bearer.

(a) Only companies that have obtained the prior written approval of the Financial Surveillance Department may issue bearer warrants on the following conditions:

(aa) Bearer warrants may only be issued to non-residents, in exchange for an equal number of registered shares of the same class and the conversion may be effected only against confirmation from an Authorised Dealer that the non-resident owned shares to be converted into bearer warrants were purchased locally with foreign currency or 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. The bearer warrants must be endorsed ‘Non-Resident’.

(b) Shares purchased in the prescribed manner by a non-resident or on his/her behalf by a broker or by his/her duly appointed nominee in South Africa, may be converted into bearer warrants:

(aa) on application by such non-resident or his/her nominee in South Africa;

(bb) on application by the person who is the registered holder of the shares at the time they are acquired by the non-resident; or

(cc) on application by the holder of registered shares bearing the endorsement ‘Transferable’.

(c) Where non-residents, by virtue of being registered shareholders or holders of bearer warrants in a company, are entitled as a right to take up shares in the same or another South African company, they may, if the latter company has obtained the necessary approval to issue bearer warrants, be issued against payment in foreign currency or 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, with bearer warrants equal to the number of shares to which they are entitled. Before issuing the bearer warrants, the company concerned must be furnished with a certificate by an Authorised Dealer that payment for such shares has been effected in foreign currency or 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.

(d) Bearer warrants may not be dealt in but must be converted into registered shares before being sold in South Africa on behalf of the non-resident beneficial owner.

(aa) In effecting reconversions into registered scrip, and in the event of such shares subsequently being re-materialised and issued in certificated form, such share certificates will be endorsed 'Non-Resident' and will be sent to the Authorised Dealer through whom the payment was made.

(e) All dividend payments made against coupons detached from bearer warrants are eligible for transfer abroad. Coupons received by Authorised Dealers on a collection basis may be similarly dealt with and should be presented to the issuing company as though the Authorised Dealer were acting as nominee.

(f) Subject to the provisions of (d) above, bearer warrants may be held in South Africa by a nominee of a non-resident, but in terms of Regulation 14(1)(b) no person may act as nominee for non-residents without the permission of the Financial Surveillance Department. Presentation of dividend coupons by a nominee must be accompanied by a declaration that the coupons are presented on account of non-residents.

(aa) The proceeds of coupons so presented less non-resident shareholders' tax, can thereafter be transferred to the non-resident abroad. The Authorised Dealer will require a declaration by the company that the payments are due to non-residents in respect of dividends on bearer warrants issued under these special arrangements.

(g) Bearer warrants must be distinctively printed and must bear the endorsement "These bearer warrants are issued with the approval of the South African Treasury under the Republic of South African Exchange Control Regulations". The words 'South Africa' must

appear prominently on all bearer warrants, talons and coupons so that the difference between these issues and previous issues may be easily recognised.

(h) Bearer warrants issued under these arrangements must be endorsed in terms of Regulation 14(2).

(N) The Derivatives Market of the JSE Limited

(i) Authorised Dealers may credit or debit Non-resident Rand accounts of non-resident clients with margin payments due to or from JSE Clear (Pty) Limited in respect of their positions in derivatives instruments.

(ii) The terms and conditions pertaining to non-resident clients in their dealings on the Derivatives Market of the JSE Limited are prescribed in the Rules and Directives of the JSE Limited.

(iii) See section B.2(J)(v)(a)(aa) of the Authorised Dealer Manual with regard to the release of emigrants' remaining assets in respect of margin payments due to JSE Clear (Pty) Limited, on behalf of emigrant clients.

(O) Dual listing of entities within SADC and SADC depository receipts on the JSE Limited

(i) Applications by foreign entities to list on the JSE Limited, as well as the listing of SADC depository receipts (SDRs) on the JSE Limited, must be submitted to the Financial Surveillance Department, together with full details of the proposed transactions.

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H. Inward listings on South African exchanges

(A) Introduction

(i) Instruments that offer South African investors exposure to offshore referenced assets in Rand terms must be listed on the JSE Limited. These foreign referenced instruments may not be offered to South African investors on an over the counter basis. Types of instruments include equity, debt and derivatives. These instruments may only be denominated in Rand.

(ii) Non-resident entities, local Authorised Dealers and the JSE Limited are allowed to issue inward listed instruments referencing foreign assets on the JSE Limited. Local collective investment scheme management companies registered with the Financial Sector Conduct Authority and regulated under CISCA are only allowed to inward list exchange traded funds referencing foreign assets on the JSE Limited. These entities require prior written approval of the Financial Surveillance Department in respect of all issuances of inward listed instruments.

(iii) An Authorised Dealer wishing to facilitate the cross-border reporting of inward listed transactions requires prior written approval of the Financial Surveillance Department and will have to comply with the specific reporting requirements of the Financial Surveillance Department.

(iv) Approved inward listed shares are classified as domestic and inward listed debt and derivative instruments referencing a foreign asset are classified as foreign. The full nominal value of instruments classified as foreign should be marked off against the respective foreign investment allowances of institutional investors and Authorised Dealers.

(v) Institutional investors are allowed to invest in approved inward listed shares without affecting their permissible foreign portfolio investment allowance. They may invest in other approved inward listed instruments based on foreign referenced assets or issued by foreign entities, listed on the JSE Limited using the permissible foreign portfolio investment allowances. Institutional investors may also invest an additional 10 per cent of their total retail assets in approved African inward listed instruments.

(vi) Authorised Dealers may invest in approved inward listed shares without affecting their macro-prudential limit. They may invest in other approved inward listed instruments subject to the macro-prudential limit as defined in section B.2(I) of the Authorised Dealer Manual.

(vii) South African corporates, trusts, partnerships and private individuals may invest in approved inward listed instruments without restriction. Emigrants may also invest in approved inward listed instruments without restriction, subject to the provisions of section B.2(J) of the Authorised Dealer Manual.

(viii) It is envisaged that inward listings will attract foreign direct investment to the domestic economy, increase market capitalisation and liquidity in the local capital market, support the New Partnership for Africa's Development initiative and support the enhancement of foreign investment diversification through domestic channels.

(ix) Inward listed shares mean the following products listed on the JSE Limited:

No	Product	Details
1.	Ordinary shares/equities including A,B and N shares	Shares which are listed on the JSE Limited and settled in Rand.
2.	Preference shares/debentures	If the company is already listed on the JSE Limited and the preference share/debenture is compulsory convertible.
3.	Linked units/participatory interest/ real estate investment trusts (REITS) and loan stock companies	If the company is already primary or secondary listed on the JSE Limited.
4.	Exchange traded funds (ETFs)	An instrument that tracks a basket of shares, as long as they track an index or shares that are made up of companies already listed on the JSE Limited. This must be valid for all the shares in the index.
5.	Warrants	As long as they represent an underlying share or basket of shares already listed on the JSE Limited.
6.	Share instalments	As long as they represent an underlying share or basket of shares already listed on the JSE Limited.
7.	Derivatives - Equities indices	A future or option that is listed against an index that represents companies already listed on the JSE Limited.
8.	Derivatives - Single stock futures and options	A future or option that is listed against a single security of a company that is already listed on the JSE Limited .
9.	Derivatives - Dividend futures and options	A future or option on a dividend of a company that is

No	Product	Details
		already listed on the JSE Limited.
10.	Krugerrand coins	Listed and traded on the JSE Limited in Rand.
11.	Current commodity derivatives (i.e. White Maize)	Listed and traded on the JSE Limited in Rand.

(B) Measures applicable to inward listed equity issues, debt and derivative instruments on the JSE Limited

(i) Equity issues

(a) Acquisition issue

(aa) Foreign companies may, on application, be allowed to use their shares as acquisition currency.

(bb) South African institutional investors, Authorised Dealers, corporates, trusts, partnerships and private individuals may accept the shares without restriction.

(cc) Emigrants may also accept the shares without restriction, subject to the provisions of section B.2(J) of the Authorised Dealer Manual.

(b) Issue of shares for cash (capital raising through an initial public offering)

(aa) The foreign entity must open a special designated vostro-styled account (designated account) with an approved Authorised Dealer for the duration of the listing on the JSE Limited, for purposes of receiving and recording the capital raised in terms of the prospectus, effecting dividend payments, etc. This is essential to ensure compliance with the Reporting System requirements.

(c) Rights offers

(aa) South African institutional investors, Authorised Dealers, corporates, trusts, partnerships and private individuals may exercise their rights in terms of a rights offer without restriction.

(bb) Emigrants may also exercise their rights in terms of a rights offer without restriction, subject to the provisions of section B.2(J) of the Authorised Dealer Manual.

(d) Deployment of capital

(aa) The capital must be deployed as soon as possible but not later than one month after being raised and recorded in the designated account.

(bb) Failure to deploy the capital within the stipulated period must be reported to the Financial Surveillance Department and the JSE Limited, who will require to be furnished with the reasons for the delay in deploying the capital, as well as the expected date of deployment of such capital.

(ii) Debt issues

(a) Capital raising through new debt listings

(aa) Issuers of debt instruments must open a special designated vostro-styled account (designated account) for the duration of the listing with an approved Authorised Dealer for purposes of receiving the capital raised, effecting coupon payments, redemption payments, etc. This is essential to ensure compliance with the Reporting System requirements.

(b) Criteria for 'African' debt

(aa) 'African' debt encompasses debt securities issued and listed on the JSE Limited by African governments, African public entities, African local authorities, African development agencies and by non-African development institutions where the funds raised are earmarked for use in Africa.

(c) Deployment of capital

(aa) The capital must be deployed as soon as possible but not later than one month after being raised and recorded in the designated account.

(bb) Failure to deploy the capital within the stipulated period must be reported to the Financial Surveillance Department and the JSE Limited, who will require to be furnished with the reasons for the delay in deploying the capital, as well as the expected date of deployment of such capital.

(iii) Derivative issues

(a) The listing of and trading in derivative instruments are subject to the following conditions:

(aa) for every buyer there should be a seller;

(bb) the loss for one party is paid as the profit of the counterparty;

(cc) participants may not hedge their exposures by physically trading in the underlying referenced asset unless that particular asset is also inward listed on the JSE Limited; and

(dd) all settlements should take place locally in Rand.

(C) Special dispensation to local brokers to facilitate the trading of inward listed shares

(i) Local brokers are allowed to purchase inward listed shares offshore and to transfer such shares to the South African section of the register as a book-building exercise and to enhance liquidity on the JSE Limited.

(ii) This dispensation is confined to inward listed shares and brokers may warehouse such shares for a maximum period of 30 days only.

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I.1 Local financial assistance to affected persons and non-residents

(A) Introduction

(i) Regulation 3(1)(e) and (f) prohibits the granting of local financial assistance to, as well as the acceptance of collateral from, affected persons and non-residents.

(B) General

(i) The lender is obliged to obtain exemption from the provisions of Regulation 3(1)(f). It is therefore the lender's responsibility to establish whether or not a prospective borrower is an affected person or a non-resident.

(ii) For ease of administration, any application for exemption from the aforementioned Regulation must be submitted in the name of the borrower.

(C) Affected persons availing of local financial assistance in respect of transactions other than financial transactions and the acquisition of residential property

(i) Authorised Dealers are exempted from the provisions of Regulation 3(1)(e) and (f) and may grant or authorise local financial assistance facilities to affected persons without restriction.

(D) Affected persons availing of local financial assistance in respect of financial transactions and the acquisition of residential property

(i) Authorised Dealers are exempted from the provisions of Regulation 3(1)(e) and (f) and may grant or authorise local financial assistance facilities to affected persons where the funds to be borrowed are required for financial transactions and/or the acquisition of residential property in South Africa, provided the 1:1 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.

(ii) Financial transactions include, inter alia, the purchase and sale of any securities (listed or unlisted), repurchase agreements and any derivative transactions on securities.

(E) Non-residents and emigrants

(i) Authorised Dealers may grant or authorise local financial assistance facilities to non-residents in respect of bona fide foreign direct investment in South Africa without restrictions, except where the funds are required for financial transactions and/or the acquisition of residential or commercial property in South Africa, the 1:1 ratio will apply.

(ii) As an exception to (i) above, Authorised Dealers may grant or authorise local financial assistance facilities to non-residents living and working in South Africa in respect of the acquisition of residential property, subject to normal lending criteria.

(iii) Any facility being made available to a non-resident party must be secured by an unencumbered Rand deposit or Rand based asset of equal or higher value. In addition, any facility accorded to the non-resident in respect of the aforementioned may not cause the borrower to exceed 100 per cent of the Rand value of funds introduced from abroad and invested locally.

(iv) 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.

(v) Local financial assistance granted to emigrants that utilise their capital account Rand balances or remaining Rand assets as collateral must comply with the 1:1 ratio irrespective of the nature of the transaction.

(F) Local financial assistance to affected persons or non-residents against a guarantee issued by an affected person or non-resident

(i) Exemption from the provisions of Regulation 3(1)(e) is hereby granted to a local lender where such facilities granted are secured against a guarantee from an affected person or a non-resident. CFC and foreign currency account balances may also be accepted as security for local financial assistance.

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I.2 Local facilities to non-residents

(A) Short-term trade finance extended by a local Authorised Dealer to a non-resident directly related to the export of goods or services from South Africa

(i) In order to facilitate the export of goods from South Africa, the Financial Surveillance Department is prepared to permit local Authorised Dealers, on application, to extend short-term finance facilities denominated in Rand or a foreign currency to the non-resident importer or his/her banker abroad on the conditions mentioned below.

(a) Finance facilities denominated in Rand

(aa) The facilities must relate to the post-shipment finance of the export of a specific shipment of goods and at the time of drawdown, the local Authorised Dealer extending these facilities must view the prescribed SARS Customs Declaration.

(bb) The foreign currency proceeds eventually received in South Africa and/or payments received from any Non-resident Rand account, must be utilised to liquidate the aforementioned short-term export finance facility. The relevant Financial Surveillance Department requirements relating to the reporting in terms of the Reporting System and the observance of the 30-day rule must be complied with.

(cc) The overall finance period, including any initial credit granted by the exporter, may not exceed six months from date of shipment of the underlying goods from South Africa unless the dispensation outlined in section B.18(B)(i)(b) of the Authorised Dealer Manual has been granted, when the overall finance period, including any initial credit granted by the exporter, may not exceed 12 months from date of shipment of the underlying goods from South Africa. An export finance facility may be extended in the event of the overseas importer requiring an extension of the original credit period, provided that the overall finance periods set out above are not exceeded.

(dd) The facility must be repaid with foreign currency and/or by payment from a Non-resident Rand account. No facility may be drawn down where the proceeds of the underlying export transaction have already been received.

(b) Finance facilities denominated in a foreign currency

(aa) The facilities being extended must be funded, in turn, from foreign currency placements attracted and/or lines of credit

obtained from correspondent banks abroad for that specific purpose.

(bb) The facilities must relate to the pre-shipment or post-shipment finance of the export of a specific consignment of goods.

(cc) The local Authorised Dealer extending these facilities must ensure that at the time of draw down, the foreign currency amount of the drawing is converted to Rand and the relevant Financial Surveillance Department requirements, including the reporting of transactions in terms of the Reporting System and the observance of the 30-day rule, are fully complied with.

(dd) The foreign currency proceeds eventually received in South Africa must be utilised to liquidate the aforementioned short-term export finance facility.

(ee) The overall finance period including any initial credit granted by the exporter may not exceed six months from date of shipment of the underlying goods from South Africa or unless the dispensation outlined in section B.18(B)(i)(b) of the Authorised Dealer Manual has been granted, when the overall finance period including any initial credit granted by the exporter, may not exceed 12 months from date of shipment of the underlying goods from South Africa. An export finance facility may be extended in the event of the overseas importer requiring an extension of the original credit period, provided that the overall finance periods set out above are not exceeded.

(ff) The facility must be repaid with foreign currency and/or by payment from a Non-resident Rand account. No facility may be drawn down where the proceeds of the underlying export transaction have already been received.

(c) In the application to the Financial Surveillance Department for approval to extend short-term foreign finance facilities, relating to the export of goods from South Africa, to non-residents, without obtaining our prior written approval in each instance, Authorised Dealers must undertake to observe the guidelines enumerated above and all other relevant Financial Surveillance Department directives.

(B) Finance facilities extended by a local Authorised Dealer not related to the export of goods and services from South Africa

(i) Foreign currency denominated finance facilities extended to non-residents for utilisation outside South Africa in terms of section B.2(I) of the Authorised Dealer Manual are not subject to the requirements of Regulations 3(1)(e) and (f).

(ii) Rand denominated finance facilities extended to non-residents for utilisation within South Africa in terms of section B.2(I) of the Authorised Dealer Manual are subject to the conditions as outlined in section I.1 of the Authorised Dealer Manual.

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I.3 Borrowing abroad by residents

(A) Fraudulent practices involving purported foreign loan facilities such as advance fee fraud

(i) Any applications for foreign currency to meet the purported cost of raising fees or administrative charges in connection with any proposed borrowing abroad by residents must be referred to the Financial Surveillance Department for prior written approval with full details of the terms of the proposed loan together with the original documentary evidence submitted in support of the request.

(ii) Furthermore, should Authorised Dealers be approached by prospective borrowers with the request to issue, on the borrower's behalf, stand-by letters of credit or other forms of guarantees, make promissory notes or avalise promissory notes or other forms of debt instruments made by the borrower, in favour of the lender, all such requests must be referred to the Financial Surveillance Department for approval with full details as mentioned above.

(B) Authority to Authorised Dealers

(i) Authorised Dealers may approve applications by residents, to avail of inward foreign loans and foreign trade finance facilities from any non-resident, subject to the specific criteria applicable to inward foreign loans being adhered to and that such loans are recorded via the Loan Reporting System.

(ii) Reporting of loans

(a) To facilitate the correct and accurate reporting of inward foreign loans and foreign trade finance facilities, a web based Loan Reporting System can be accessed from the South African Reserve Bank website: www.resbank.co.za, by following the links: Financial Surveillance>Authorised Dealers>Loan Reporting System.

(b) All loans reported via the Loan Reporting System will be monitored by the Financial Surveillance Department and any inconsistencies will be queried with the specific Authorised Dealer concerned.

(iii) Application requirements

(a) All applications for inward foreign loans and foreign trade finance facilities must, inter alia, contain the following information:

(aa) full names of the local borrower;

(bb) identity number or temporary resident permit number or registration number of the borrower;

(cc) full names of the foreign lender;

(dd) domicile of the foreign lender;

(ee) relationship between the foreign lender and the borrower;

(ff) denomination of the loan;

(gg) currency and amount of principal sum;

(hh) interest rate and margin;

(ii) purpose of the loan;

(jj) details of the type of security required, if any;

(kk) 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;

(ll) copy of the loan agreement, if available/applicable;

(mm) full details of early repayment options, as well as currency switch options, if any;

(nn) 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

(oo) detail of any commitment fees, raising fees and/or any other administration fees payable by the borrower.

(iv) Adjudication process

(a) The following criteria must be strictly applied by Authorised Dealers when adjudicating applications for inward foreign loans and foreign trade finance facilities:

(aa) the tenor of each loan must be at least one month;

(bb) 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;

(cc) 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;

(dd) 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

(ee) the loan funds may not be invested into foreign sinking funds;

(ff) no upfront payment of commitment fees, raising fees and/or any other administration fees are payable by the borrower; and

(gg) 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.

(v) Applications to be submitted to the Financial Surveillance Department

(a) Authorised Dealers must submit an application to the Financial Surveillance Department for consideration in the following instances:

(aa) regularisation of all unauthorised inward foreign loans and foreign trade finance facilities;

(bb) loan draw-downs, capital and interest payments, where the funds originate from or are deposited to Non-resident Rand account. These transactions are not reportable on the Reporting System;

(cc) loan draw-downs, capital and interest payments in respect of foreign trade finance facilities for imports/exports where the transactions will not be reported;

(dd) any other instances where the Reporting System will not reflect changes to the original loan;

(ee) any other instances subsequent to the original loan approval to reflect changes to the original loan, interest rate, capital repayments to non-resident third parties other than the original lender on record with the Financial Surveillance Department and instances where funds are draw-down or are to be received from parties other than the original lender;

(ff) any unauthorised increase/decrease of the principal amount of the foreign loan;

(gg) capitalisation of interest;

(hh) compounding of interest;

(ii) conversion of the loan to share capital;

(jj) consolidation of loans;

(kk) all loans where commitment fees, raising fees and/or any other administrative fees exceed 5 per cent of the principal sum;

(ll) early capital redemptions;

(mm) issuance of redeemable preference shares to non-residents;

(nn) bond issues; and

(oo) all cases where the criteria outlined in (iii) above cannot be met.

(vi) Capital repayments

(a) Authorised Dealers may provide foreign currency for the repayment of inward foreign loans and foreign trade finance facilities, inclusive of loans and trade finance facilities approved by the Financial Surveillance Department prior to 2007-10-01, equal to the funds drawn down under a specific loan on the due date. Capital and interest payments must be reported separately on the Reporting System.

(b) Capital repayments must be strictly in accordance with the terms of the loan.

(c) In the case of foreign trade finance facilities, repayments of such facilities must be reported under category 106 or 801 and interest payments under category 309-06 of the Reporting System.

(vii) Guarantees

(a) Authorised Dealers may issue guarantees in favour of non-resident lenders as and when required.

(viii) Draw-downs

(a) Authorised Dealers must ensure that loan draw-downs, inclusive of any draw-down advices in respect of loans approved by the

Financial Surveillance Department prior to 2007-10-01, are reported on the Reporting System or, where no flow of funds will take place, a suitable application advice must be submitted to the Financial Surveillance Department.

(b) The principal sum of the loan must be introduced within a period of 12 months and may not exceed the authorised amount of the loan. Any extensions in this regard, must be advised to the Financial Surveillance Department.

(ix) Retention of documentation

(a) Authorised Dealers must be able to substantiate all information submitted via the Loan Reporting System. For inspection purposes, documentary evidence must be retained for a period of five years after the full repayment of the loan.

(C) Trade finance, long-term loans and working capital loans extended by Authorised Dealers

(i) Short-term trade finance

(a) Imports

(aa) Authorised Dealers may, on application to the Financial Surveillance Department or unless exempted, extend short-term foreign trade finance facilities, relating to the importation of goods into South Africa to residents subject to the following conditions:

(1) the facilities being extended by the local bank concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for this specific purpose;

(2) the facilities relate to the payment for the importation of a specific consignment of goods. In this regard, the local bank concerned may bundle a number of payments together when extending a short-term foreign trade finance facility, but must ensure that payments for the underlying transactions have been made not more than six weeks prior to the date of draw-down of the facility or that payments will be made within six weeks from the date of draw-down of the facility. In all instances the draw-down of the facility may only take place on or after date of shipment, except for advance payments where the draw-down can be done prior to the goods being shipped, provided that the advance payment complies with the provisions outlined in sections B.1(D)(i) and (ii) of the Authorised Dealer Manual;

(3) the Authorised Dealer extending these facilities ensures that the underlying payments comply fully with the relevant Financial Surveillance Department authorities and directives, including the viewing of substantiating documentation and the reporting in terms of the Reporting System on repayment of the facility;

(4) the overall finance period, including any initial supplier's credit taken, does not exceed 12 months from date of shipment of the underlying goods to South Africa; and

(5) no such facility may be drawn down unless the supplier had been paid or will be paid with the proceeds of the said facility and no other financial commitment exists in regard to the underlying importation, except where a batch of import payments are being bundled into one draw-down under a short-term foreign trade finance facility.

(b) Exports

(aa) Authorised Dealers may, on application to the Financial Surveillance Department or unless exempted, extend short-term foreign trade finance facilities relating to the export of goods from South Africa to residents, subject to the following conditions:

(1) the facilities being extended by the Authorised Dealer concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for this specific purpose;

(2) the facilities relate to the pre- or post-shipment finance of the export of a specific consignment of goods;

(3) the Authorised Dealer extending these facilities ensures that at the time of draw-down, the foreign currency amount of the drawing is converted into Rand and the relevant Authorised Dealer requirements, and the observance of the 30-day rule, are complied with. The reporting in terms of the Reporting System must take place upon the receipt of the export proceeds from abroad;

(4) the foreign currency draw-down under a short-term export finance facility must be treated as the early accrual of the export proceeds, be converted to Rand and further administered as such. Should the exporter be required to effect any foreign payments specifically relating to the export transactions, such costs may be

paid in foreign currency, without first being converted to Rand. Authorised Dealers must view suitable documentation pertaining thereto and ensure the correct reporting of the transaction in terms of the FinSurv Reporting System;

(5) the foreign currency eventually received from the overseas importer is not converted to Rand, but is applied in repayment of the export finance facility;

(6) where another Authorised Dealer has been instructed to receive the proceeds, it would pass these on to the Authorised Dealer extending the trade finance facility by crediting the latter's nostro account, thus ensuring that it is always possible to relate all outstanding facilities to specific current export transactions;

(7) the overall finance period, including any initial credit granted by the exporter, does not exceed six months from date of shipment of the underlying goods from South Africa, unless the dispensation outlined in section B.18(B)(i)(b) of the Authorised Dealer Manual has been granted, when the overall finance period including any initial credit granted by the exporter may not exceed 12 months from date of shipment of the underlying goods from South Africa. An export finance facility may be extended in the event of the overseas importer requiring an extension of the original credit period, provided that the overall finance periods set out above are not exceeded;

(8) the facility must be repaid with foreign currency. No facility may be drawn down where payment of the underlying export transaction has already been received;

(9) in the event of the overseas importer paying before the relative export finance facility has fallen due for repayment and effecting an early repayment thereof is not possible, the local exporter may either retain these foreign currency funds in a CFC account to meet his/her export finance liability on due date, or alternatively convert such funds to Rand. Should the local exporter opt for the latter, the foreign finance facility must from then on be administered as a short-term working capital loan and be reported as such in subsequent monthly returns submitted to the Financial Surveillance Department; and

(10) in the event the overseas importer does not effect payment or only makes partial payment, the balance

outstanding must from then on be administered as a short-term working capital loan and be reported as such in subsequent monthly returns submitted to the Financial Surveillance Department, who must also be informed of the overseas importer's default.

(bb) The facilities enumerated above would not be included in the calculation of an affected person's local borrowing levels in terms of the provisions of Regulation 3(1)(f), provided that the facilities being extended by the local bank concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for the specific purposes mentioned.

(ii) Short-term working capital loans

(a) Authorised Dealers may, on application to the Financial Surveillance Department or unless exempted, extend short-term foreign currency working capital loan facilities, specifically relating to the financing of current assets, other than those arising from the import or the export of goods into or from South Africa, to residents on the following basis:

(aa) the facilities being extended by the Authorised Dealer concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for this specific purpose; and the facilities relate to the financing of a resident's current assets other than those arising from the importation or the exportation of goods into or from South Africa.

(b) The facilities enumerated above would not be included in the calculation of an affected person's local borrowing levels in terms of the provisions of Regulation 3(1)(f), provided that the facilities being extended by the Authorised Dealer concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for this specific purpose.

(iii) Long-term loans

(a) In the event of an Authorised Dealer wishing to interpose itself locally and assume the funding of a capital goods import by substituting either local funding or shorter-term foreign currency finance facilities and, in so doing, bars direct utilisation of new long-term lines of credit, which were available for that specific purpose (by e.g. negotiating any bills of exchange or promissory notes, transferring or providing any security or acknowledging any debt), the Financial Surveillance Department's prior approval must be obtained, if not exempted.

(b) Should an Authorised Dealer in similar circumstances wish to interpose itself through a subsidiary or branch office outside South Africa, it may do so provided that such transactions are financed solely out of the offshore entity's own resources abroad. It follows that no funding may be provided from the CMA to the offshore entity to assist either wholly or partially, with the financing of such a transaction. Furthermore, such financing must run for the full credit period originally agreed and the resident debtor may not repay such financing at an earlier date, without the Financial Surveillance Department's prior approval.

(c) Authorised Dealers must obtain prior written approval from the Financial Surveillance Department before entering into export credit facility agreements with correspondent banks abroad. Furthermore, the prior written approval from the Financial Surveillance Department must be obtained for all facilities subsequently availed of under such agreements where the overall finance period, including any initial supplier's credit, exceeds 12 months from date of shipment of the underlying goods to South Africa.

(d) The facilities mentioned above would not be included in the calculation of an affected person's local borrowing levels in terms of the provisions of Regulation 3(1)(f), provided that the facilities being extended by the Authorised Dealer concerned are funded, in turn, from foreign currency placements attracted and/or lines of credit obtained from correspondent banks abroad for that specific purpose.

(D) Expiry of the debt standstill arrangements on 2001-08-15

(a) Authorised Dealers may continue to repay South African foreign debt covered in the '1994 Debt Arrangement Letter' dated 1993-09-09, provided that the applicant is in possession of a computer generated 'Standstill Authorisation Printout'. Any repayment request which is not accompanied by such printout must be referred to the Financial Surveillance Department.

(E) Corporate foreign debt issuance

(i) Authorised Dealers may approve requests for foreign bond and note issuances by corporates with recourse to South Africa, e.g., a guarantee from South Africa and the issuance of shares in the South African entity, subject to the following conditions:

(a) South African private individuals may only participate in the foreign bond and/or note issuances utilising their foreign capital allowance. Similarly, qualifying South African institutional investors who utilise their respective prudential limits may participate in the foreign bond and/or note issuances.

(b) The coupon payable must be market related in the jurisdiction where the foreign bond and/or notes are issued.

(c) Where the foreign bond and/or note proceeds are being deployed offshore, all costs and expenses associated with the bond and/or note issuances as well as the servicing of the coupon payments and repayments of the principal amount must be serviced from offshore.

(d) Where the foreign bond and/or note proceeds are introduced into South Africa, the transaction must be recorded via an Authorised Dealer on the Loan Reporting System.

(e) Within 30 days of the bond and/or note issuances offshore, the Financial Surveillance Department requires to be advised of the uptake, the amount of capital raised and the all-inclusive cost of the bond and/or notes issued.

(f) The Financial Surveillance Department annually requires to be furnished with a report indicating the balance outstanding on the principal amount of the debt instrument.

(g) Should any guarantee issued from South Africa be called up, the Financial Surveillance Department should immediately be advised of the circumstances that gave rise thereto.

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J. FinSurv Reporting System

(A) Introduction

(i) The objective of the Reporting System is to ensure accurate and comprehensive reporting of all data by Authorised Dealers 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 to provide the appropriate information for economic and financial management decisions, as well as planning and policy formulation.

(B) Business and Technical Specifications document

(i) The complete Business and Technical Specifications document can be downloaded from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance>Authorised Dealers>FinSurv Reporting System>FinSurv Reporting System documents>Business and Technical Specifications.

(ii) Once access has been granted, select 'Business and Technical Specifications, Version 3, FinSurv Business and Technical Specifications'.

(iii) Reporting entities must comply with the rules specified in this document which must be read in conjunction with the Authorised Dealer Manual.

(C) Operations Manual

(i) The complete Operations Manual can be downloaded from the South African Reserve Bank's website: www.resbank.co.za, by following the links: Financial Surveillance>Authorised Dealers>FinSurv Reporting System>FinSurv Reporting System documents>Operational Manual.

(ii) Once access has been granted, select 'Operations Manual, Version 3, FinSurv Operations Manual'.

(iii) Reporting entities must comply with the rules specified in this document which must be read in conjunction with the Authorised Dealer Manual.

(D) Offshoring and cloud computing

(i) The Financial Surveillance Department is prepared to consider requests to authorise the following offshoring and cloud computing models relevant exclusively to data, infrastructure and systems, as contemplated in the Authorised Dealer Manual:

(a) offshoring within a reporting entity's international head office and/or group;

(b) cloud computing relating to data, infrastructure and systems;

(c) local outsourcing of data, infrastructure and systems; and

(d) real-time system and data replication to South Africa from an international head office and/or group.

(ii) The Financial Surveillance Department is not agreeable to the following offshoring and cloud computing models:

(a) offshoring, local and international outsourcing or cloud computing of functions, services and business processes as contemplated in the Authorised Dealer Manual; and

(b) any form of offshoring and cloud computing models where data is stored in a sanctioned country or in jurisdictions that may inhibit effective access to data.

(iii) Requests for utilising offshoring and cloud computing will only be considered, on a case-by-case basis, upon the submission of a formal application to the Financial Surveillance Department.

(iv) The following requirements must be adhered to:

(a) Agreements

(aa) A documented legally binding agreements or contracts must be concluded with the reporting entity's Head Office or any other third party that forms part of the proposed operating model. These agreements or contracts must state, but not be limited to, the following:

(1) data relevant to the reporting entity will be ring-fenced from other activities of the data centre to be used and should stipulate how it will be achieved;

(2) data will be retained for a minimum period of five years, as required by the Authorised Dealer Manual; and

(3) data will be accessible immediately, but not later than 48 hours, from the source systems and extractable in the format prescribed in (h)(gg) below.

(bb) Any amendments to the above agreements/contracts with regard to a change in the approved operating model requires prior approval of the Financial Surveillance Department.

(b) Risk assessment

(aa) Prior to undertaking a particular offshoring and cloud computing initiative, a reporting entity must perform a risk assessment, which must be documented.

(bb) The risk assessment must identify all risks involved and determine whether adequate controls can be implemented to mitigate any potential risks.

(cc) A reporting entity must have documented processes and procedures in place to, on a continuous basis identify, assess, manage and mitigate risks associated with offshoring and cloud computing.

(dd) Risks must be adequately understood and managed prior to entering into an offshoring and cloud computing arrangement. Factors that must be addressed include, inter alia, continuity, data protection, regulatory access to data and regulatory compliance.

(c) Business continuity plan

(aa) A reporting entity must satisfy itself that the data centre hosting the data must have extensive disaster recovery and business continuity processes and procedures in place.

(bb) Regular disaster recovery tests must be performed to ensure data can be recovered.

(d) Storage of data

(aa) All data must be ring-fenced without the ability to be updated by unauthorised persons.

(bb) Cross-border transactional data must be stored directly into the source system, i.e. the core accounting system.

(cc) Customer data must be stored directly from the source system, i.e. the centralised customer database.

(dd) In an event of the reporting entity terminating its operations in South Africa for any reason whatsoever, data for five years preceding the date of termination, must be replicated to South Africa by the reporting entity in a format accessible by the Financial Surveillance Department and within an agreed period.

(e) Regulatory access to data

(aa) Any data required by the Financial Surveillance Department must be made available for access immediately, but not later than 48 hours, by the reporting entity and should forthwith be furnished to the Financial Surveillance Department in the format prescribed in paragraph (h)(gg) below.

(bb) Information must be made available, upon request, at no cost to the Financial Surveillance Department.

(cc) The use of offshoring and cloud computing may not in any way infringe on the Financial Surveillance Department's mandated access to data.

(f) Jurisdiction

(aa) A reporting entity must ensure that data is not stored in a sanctioned country or in jurisdictions that may inhibit effective access to data.

(bb) In considering foreign jurisdictions, a reporting entity must take into account the wider political and security stability of the particular jurisdiction as well as the legislative requirements in terms of the foreign jurisdiction concerned. This should include consideration of the legal enforcement provisions within a jurisdiction.

(g) Procedure to update data back to source

(aa) From time to time a reporting entity may be required to amend certain data, e.g. balance of payments categories or cancel the reporting of a transaction. This might have an impact on the same source reporting principle, as all changes must be updated back to the source, i.e. transactional or accounting system.

(h) System requirements

(aa) Data in any offshore data centre must at the least be encrypted through modern encryption technology.

(bb) All cryptographic keys used in a storage encryption solution must be secured and managed properly to support the security of the solution.

(cc) To prevent the non-recovery of encrypted data, extensive planning of key management processes, procedures, and technologies should be performed before implementing storage encryption technologies. This planning should include all aspects of key management, including key generation, use, storage, recovery and destruction.

(dd) Only authorised personnel and systems must be able to retrieve, decrypt and process data through any network or cloud.

(ee) The foreign service provider should have very strong, documented and tested cyber controls to protect data against cybercrime.

(ff) A reporting entity must verify adherence to the agreed information security requirements, i.e. through third party assurance audits and/or any other security testing requirements such as vulnerability scanning and penetration testing.

(gg) Data requested by the Financial Surveillance Department should be provided in a standard report format, as prescribed in the Authorised Dealer Manual, such as a semi-colon delimited file (e.g.CSV).

(i) Other regulatory bodies and legislative requirements

(aa) A reporting entity must consider the offshoring and cloud computing models in the context of its overarching regulatory obligations, which may include obligations to the Financial Intelligence Centre and the Prudential Authority who have different statutory objectives and may, therefore, have different requirements.

(bb) A reporting entity must acquaint itself with the relevant provisions of the applicable legislation, e.g. the Protection of Personal Information Act, 2013 (Act No. 4 of 2013) and Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).

(v) Applications to the Financial Surveillance Department should, inter alia, include the following:

(a) confirmation that the reporting entity complies with the requirements and assurance set out in (iii) above and (v) below; and

(b) a copy of the business case which should outline, inter alia, the following:

(aa) proposed offshoring and cloud computing operating model;

(bb) details of all relevant offshoring and cloud computing third parties or service providers;

(cc) benefits and risks involved;

(dd) confirmation that the management and mitigation of risks is done in order to maximise the benefits through effective end-to-end governance practices;

(ee) jurisdictions where data will be stored;

(ff) service, deployment and security models of offshoring and cloud computing applicable to the different classifications of data;

(gg) how data loss and breaches will be dealt with;

(hh) procedure to ensure that the reporting requirements stated in the Authorised Dealer Manual are adhered to;

(ii) procedures to be implemented to accommodate requests to update data from the source systems; and

(jj) strategy to be implemented in the event that offshoring and cloud computing operations are required to be moved from one provider to another.

(vi) Assurances

(a) The compliance with all the requirements listed in (iii) above, must be contained in the Managerial Letter of Comfort to be provided to the Financial Surveillance Department on an annual basis.

(vii) Remedies

(a) Any failure by a reporting entity to comply with the above mentioned requirements may result in the suspension of authorities provided by the Financial Surveillance Department or may cause the Financial Surveillance Department to invoke remedies available to it in terms of the Exchange Control Regulations.

(E) Inward payments

(i) General

(a) Authorised Dealers must ensure the correct reporting of all cross-border foreign exchange transactions irrespective of the amounts and currencies involved.

(b) Data pertaining to transactions must be submitted to the Financial Surveillance Department in the various formats outlined in the Business and Technical Specifications document within two business days from the value date of the transaction.

(c) Rejections by the Financial Surveillance Department must be corrected and re-submitted in the agreed format within one business day from the date of the rejection.

(d) Warning messages by the Financial Surveillance Department must be thoroughly investigated and actioned within one business day from the date of the warning message and, where required, the appropriate remedial actions must be taken.

(ii) Integrated form

(a) The integrated form is applicable to all transactions reported under the 'BOPCUS', 'NON RESIDENT RAND' and 'BOPDIR' modules.

(b) Since transactions reported under the 'BOPCARD RESIDENT' module are fully electronic, the card-holder will be held responsible for transactions concluded by utilising either a debit or credit card.

(c) Transactions reported by reporting entities under the 'NON REPORTABLE', 'INTERBANK' and 'BOPCARD NON RESIDENT' modules do not require an integrated form.

(d) Authorised Dealers must make use of an integrated form in respect of all inward payments either in hard copy or electronic format, to obtain data required for the processing and reporting of all cross-border foreign exchange transactions to the Financial Surveillance Department.

(e) When the client is physically present at the Authorised Dealer, the integrated form must be completed and signed by the client in respect of all inward payments.

(f) When the client is not physically present to complete and sign the integrated form, the Authorised Dealer may complete and sign the integrated form either physically or electronically, provided that the Authorised Dealer 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 client's behalf. The client's communication must be retained by the Authorised Dealer for a period of five years for inspection purposes.

(g) 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, subject to the following conditions:

(aa) only transactions in respect of a natural person who is a client of the Authorised Dealer, will qualify;

(bb) the purpose of the transaction must be disclosed in either fields 70, 72 or 77 of the SWIFT customer transfer message, in a clear and unambiguous manner;

(cc) where additional information is required to report a transaction, e.g. exports, loans, this procedure may not be applied;

(dd) all transactions must be reported in terms of the Reporting System in line with the requirements of the Business and Technical Specifications document;

(ee) where no official mandate is in place, a confirmation must be sent by the Authorised Dealer to the client on conclusion of each transaction, containing the reporting category and clearly stipulating that should the client not be in agreement with the category selected and reported to the Financial Surveillance Department, the client must dispute same within a period of 14 days; and

(ff) a copy of the communication to the client must be retained for a period of five years for inspection purposes.

(h) In cases where the client transacts with the Authorised Dealer via an electronic interface in terms of this dispensation, the Authorised Dealer must ensure that the underlying agreements legally bind the client in terms of the correctness of the information provided via the electronic medium.

(i) The above-mentioned dispensation does not apply to an ADLA.

(iii) Declaration

(a) The following declaration must be included in the integrated form:

"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;

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; and

I consent to this information being provided to the South African Revenue Service and/or the Financial Intelligence Centre."

(F) Balance of payments categories applicable to BOPCUS AND BOPDIR - inward payments

A balance of payment category consists of a category and in some cases a category and a sub-category is also applicable.

(i) Merchandise

Transaction adjustments

100		Adjustments / Reversals / Refunds applicable to merchandise

Exports : Advance payments

101	01	Export advance payment (excluding capital goods, gold, platinum, crude oil, refined petroleum products, diamonds, steel, coal, iron ore and goods exported via the South African Post Office)
101	02	Export advance payment - capital goods
101	03	Export advance payment – gold
101	04	Export advance payment – platinum
101	05	Export advance payment – crude oil
101	06	Export advance payment – refined petroleum products
101	07	Export advance payment – diamonds
101	08	Export advance payment – steel
101	09	Export advance payment – coal
101	10	Export advance payment – iron ore
101	11	Export advance payment - goods exported via the South African Post Office
102	01	Not allocated
102	02	Not allocated
102	03	Not allocated
102	04	Not allocated
102	05	Not allocated
102	06	Not allocated

102	07	Not allocated
102	08	Not allocated
102	09	Not allocated
102	10	Not allocated
102	11	Not allocated

Exports:

103	01	Export payments (excluding capital goods, gold, platinum, crude oil, refined petroleum products, diamonds, steel, coal, iron ore and goods exported via the South African Post Office)
103	02	Export payment - capital goods
103	03	Export payment – gold
103	04	Export payment – platinum
103	05	Export payment – crude oil
103	06	Export payment – refined petroleum products
103	07	Export payment – diamonds
103	08	Export payment – steel
103	09	Export payment – coal
103	10	Export payment – iron ore
103	11	Export payment – goods exported via the South African Post Office
104	01	Not allocated
104	02	Not allocated
104	03	Not allocated
104	04	Not allocated
104	05	Not allocated
104	06	Not allocated
104	07	Not allocated
104	08	Not allocated
104	09	Not allocated
104	10	Not allocated
104	11	Not allocated

Exports: Other

105		Consumables acquired in port
106		Trade finance repayments in respect of exports
107		Export proceeds where the Customs value of the shipment is less than R500
108		Export payments where goods were declared as part of passenger baggage and no UCR is available
109	01	Proceeds for goods purchased by non-residents where no physical export will take place, excluding gold, platinum, crude oil, refined petroleum products, diamonds, steel, coal and iron ore as well as merchanting transactions
109	02	Proceeds for gold purchased by non-residents where no physical export will take place, excluding merchanting transactions

109	03	Proceeds for platinum purchased by non-residents where no physical export will take place, excluding merchanting transactions
109	04	Proceeds for crude oil purchased by non-residents where no physical export will take place, excluding merchanting transactions
109	05	Proceeds for refined petroleum products purchased by non-residents where no physical export will take place, excluding merchanting transactions
109	06	Proceeds for diamonds purchased by non-residents where no physical export will take place, excluding merchanting transactions
109	07	Proceeds for steel purchased by non-residents where no physical export will take place, excluding merchanting transactions
109	08	Proceeds for coal purchased by non-residents where no physical export will take place, excluding merchanting transactions
109	09	Proceeds for iron ore purchased by non-residents where no physical export will take place, excluding merchanting transactions
109	10	Not allocated
110		Merchanting transaction
111		Not allocated
112		Not allocated

(ii) **Intellectual property and other services**

Transaction adjustments

200	Adjustments / Reversals / Refunds applicable to intellectual property and service related items

Charges for the use of intellectual property

201	Rights assigned for licences to reproduce and/or distribute
202	Rights assigned for using patents and inventions (licensing)
203	Rights assigned for using patterns and designs (including industrial processes)
204	Rights assigned for using copyrights
205	Rights assigned for using franchises and trademarks

Disposal of intellectual property (excluding computer related and audiovisual)

210	Disposal of patents and inventions
211	Disposal of patterns and designs (including industrial processes)
212	Disposal of copyrights
213	Disposal of franchises and trademarks

Research and development

220 Proceeds received for research and development services
221 Funding received for research and development

Audiovisual and related items

225 Sales of original manuscripts, sound recordings and films
226 Receipt of funds relating to the production of motion pictures, radio and television programs and musical recordings

Computer software and related items

230 The outright selling of ownership rights of software
231 Computer-related services including maintenance, repair and consultancy
232 Commercial sales of customised software and related licences for use by customers
233 Commercial sales of non-customised software on physical media with periodic licence to use
234 Commercial sales of non-customised software provided on physical media with right to perpetual (ongoing) use
235 Commercial sales of non-customised software provided for downloading or electronically made available with periodic licence
236 Commercial sales of non-customised software provided for downloading or electronically made available with single payment

Technical related services

240 01 Fees for processing - processing done on materials (excluding gold, platinum, crude oil, refined petroleum products, diamonds, steel, coal and iron ore)
240 02 Fees for processing - processing done on gold
240 03 Fees for processing - processing done on platinum
240 04 Fees for processing - processing done on crude oil
240 05 Fees for processing - processing done on refined petroleum products
240 06 Fees for processing - processing done on diamonds
240 07 Fees for processing - processing done on steel
240 08 Fees for processing - processing done on coal
240 09 Fees for processing - processing done on iron ore
241 Repairs and maintenance on machinery and equipment
242 Architectural, engineering and other technical services
243 Agricultural, mining, waste treatment and depollution services

Travel services for non-residents

250 Travel services for non-residents - business travel
251 Travel services for non-residents - holiday travel
252 Foreign exchange accepted by residents from non-residents

Travel services for residents

255		Travel services for residents - business travel
256		Travel services for residents - holiday travel

Travel services in respect of third parties

260		Proceeds for travel services in respect of third parties - business travel
261		Proceeds for travel services in respect of third parties - holiday travel

Telecommunication and information services

265		Proceeds for telecommunication services
266		Proceeds for information services including data, news related and news agency fees

Transportation services

270	01	Proceeds for passenger services - road
270	02	Proceeds for passenger services - rail
270	03	Proceeds for passenger services - sea
270	04	Proceeds for passenger services – air
271	01	Proceeds for freight services - road
271	02	Proceeds for freight services - rail
271	03	Proceeds for freight services - sea
271	04	Proceeds for freight services – air
272	01	Proceeds for other transport services – road
272	02	Proceeds for other transport services – rail
272	03	Proceeds for other transport services – sea
272	04	Proceeds for other transport services – air
273	01	Proceeds for postal and courier services – road
273	02	Proceeds for postal and courier services – rail
273	03	Proceeds for postal and courier services – sea
273	04	Proceeds for postal and courier services – air

Financial services provided

275		Commission and fees
276		Proceeds for financial services charged for advice provided

Construction services

280		Proceeds for construction services

Government services

281		Proceeds for government services
282		Diplomatic transfers

Study related services

285		Tuition fees

Other business services rendered

287		Proceeds for legal services
288		Proceeds for accounting services

289 Proceeds for management consulting services
290 Proceeds for public relation services
291 Proceeds for advertising and market research services
292 Proceeds for managerial services
293 Proceeds for medical and dental services
294 Proceeds for educational services
295 Operational leasing
296 Proceeds for cultural and recreational services
297 Proceeds for other business services not included elsewhere
298 Not allocated
299 Not allocated

(iii) Transactions relating to income and yields on financial assets

Transaction adjustments

300 Adjustments / Reversals / Refunds related to income and yields on financial assets

Income receipts

301 Dividends
302 Branch profits
303 Compensation paid by a non-resident to a resident employee temporarily abroad (excluding remittances)
304 Compensation paid by a non-resident to a non-resident employee in South Africa (excluding remittances)
305 Compensation paid by a non-resident to a migrant worker employee (excluding remittances)
306 Compensation paid by a non-resident to a foreign national contract worker employee (excluding remittances)
307 Commission or brokerage
308 Rental
309 01 Interest received from a resident temporarily abroad in respect of loans
309 02 Interest received from a non-resident in respect of individual loans
309 03 Interest received from a non-resident in respect of study loans
309 04 Interest received from a non-resident in respect of shareholders loans
309 05 Interest received from a non-resident in respect of third party loans
309 06 Interest received from a non-resident in respect of trade finance loans
309 07 Interest received from a non-resident in respect of a bond
309 08 Interest received not in respect of loans
310 01 Income in respect of inward listed securities equity individual
310 02 Income in respect of inward listed securities equity corporate

310	03	Income in respect of inward listed securities equity bank
310	04	Income in respect of inward listed securities equity institution
311	01	Income in respect of inward listed securities debt individual
311	02	Income in respect of inward listed securities debt corporate
311	03	Income in respect of inward listed securities debt bank
311	04	Income in respect of inward listed securities debt institution
312	01	Income in respect of inward listed securities derivatives individual
312	02	Income in respect of inward listed securities derivatives corporate
312	03	Income in respect of inward listed securities derivatives bank
312	04	Income in respect of inward listed securities derivatives institution
313		Income earned abroad by a resident on an individual investment
314		Not allocated
315		Not allocated

(iv) Transfers of a current nature

Transaction adjustments

400	Adjustments / Reversals / Refunds related to transfers of a current nature

Current payments

401		Gifts
402		Annual contributions
403		Contributions in respect of social security schemes
404		Contributions in respect of charitable, religious and cultural (excluding research and development)
405		Other donations / aid to government (excluding research and development)
406		Other donations / aid to private sector (excluding research and development)
407		Pensions
408		Annuities (pension related)
409		Inheritances
410		Alimony
411	01	Tax - Income tax
411	02	Tax - VAT refunds
411	03	Tax – Other
412		Insurance premiums (non life/short term)
413		Insurance claims (non life/short term)
414		Insurance premiums (life)
415		Insurance claims (life)
416		Migrant worker remittances (excluding compensation)
417		Foreign national contract worker remittances (excluding compensation)

418 Value Transfer Service (Authorised providers - for statistical purposes only)
419 Not allocated

(v) Transfers of a capital nature

Capital transfers and immigrants

Transaction adjustments

500 Adjustments / Reversals / Refunds related to capital transfers and immigrants

Capital transfers relating to government / corporate entities (excluding loans)

501 Donations to SA Government for fixed assets
502 Donations to corporate entities - fixed assets
503 Investment into property by a non-resident corporate entity
504 Disinvestment of property by a resident corporate entity

Capital transfers by non-resident individuals

510 01 Investment into property by a non-resident individual
510 02 Investment by a non-resident individual - other

Capital transfers by South African resident individuals

Disinvestment of capital

511 01 Disinvestment of capital by a resident individual – Shares
511 02 Disinvestment of capital by a resident individual – Bonds
511 03 Disinvestment of capital by a resident individual – Money market instruments
511 04 Disinvestment of capital by a resident individual – Deposits with a foreign bank
511 05 Disinvestment of capital by a resident individual – Mutual funds / collective investment schemes
511 06 Disinvestment of capital by a resident individual – Property
511 07 Disinvestment of capital by a resident individual – Other
511 08 Not allocated

Disinvestment of capital in terms of investment allowance

512 01 Not allocated
512 02 Not allocated
512 03 Not allocated
512 04 Not allocated
512 05 Not allocated
512 06 Not allocated
512 07 Not allocated
512 08 Not allocated
513 Not allocated

Disinvestment of capital to a resident Foreign Currency account
(Note: Categories 511/01 to 511/07 must be used)

514	01	Not allocated
514	02	Not allocated
514	03	Not allocated
514	04	Not allocated
514	05	Not allocated
514	06	Not allocated
514	07	Not allocated
514	08	Not allocated

Disinvestment of capital

515	01	Not allocated
515	02	Not allocated
515	03	Not allocated
515	04	Not allocated
515	05	Not allocated
515	06	Not allocated
515	07	Not allocated
515	08	Not allocated
516		Repatriation of capital, on instruction by the Financial Surveillance Department, of a foreign investment by a resident individual in respect of cross-border flows
517		Repatriation of capital, on instruction by the Financial Surveillance Department, of a foreign investment by a resident individual originating from an account conducted in foreign currency held at an Authorised Dealer in South Africa

Immigrants

530	01	Immigration
530	02	Not allocated
530	03	Not allocated
530	04	Not allocated
530	05	Not allocated
530	06	Not allocated
530	07	Not allocated
530	08	Not allocated
531		Not allocated
532		Not allocated

(vi) Financial investments/disinvestments and prudential investments

Transaction adjustments

600	Adjustments / Reversals / Refunds related to financial investments/disinvestments and prudential investments

Financial investments/disinvestments (excluding local institutional investors)

Investment by a non-resident

601	01	Investment in listed shares by a non-resident
601	02	Investment in non-listed shares by a non-resident
602		Investment into money market instruments by a non-resident
603	01	Investment into listed bonds by a non-resident (excluding loans)
603	02	Investment into non-listed bonds by a non-resident (excluding loans)
604		Not allocated

Disinvestment by a resident corporate entity

605	01	Disinvestment of shares by resident - Agriculture, hunting, forestry and fishing
605	02	Disinvestment of shares by resident - Mining, quarrying and exploration
605	03	Disinvestment of shares by resident - Manufacturing
605	04	Disinvestment of shares by resident - Electricity, gas and water supply
605	05	Disinvestment of shares by resident - Construction
605	06	Disinvestment of shares by resident - Wholesale, retail, repairs, hotel and restaurants
605	07	Disinvestment of shares by resident - Transport and communication
605	08	Disinvestment of shares by resident - Financial services
605	09	Disinvestment of shares by resident - Community, social and personal services
605	10	Not allocated

Inward listed investments

610	01	Inward listed securities equity individual buy back
610	02	Inward listed securities equity corporate buy back
610	03	Inward listed securities equity bank buy back
610	04	Inward listed securities equity institution buy back
611	01	Inward listed securities debt individual redemption
611	02	Inward listed securities debt corporate redemption
611	03	Inward listed securities debt bank redemption
611	04	Inward listed securities debt institution redemption
612	01	Inward listed securities derivatives individual proceeds
612	02	Inward listed securities derivatives corporate proceeds
612	03	Inward listed securities derivatives bank proceeds
612	04	Inward listed securities derivatives institution proceeds
613	01	Not allocated
613	02	Not allocated
613	03	Not allocated
613	04	Not allocated

Prudential investments (institutional investors and banks)

615	01	Disinvestment by resident institutional investor – Asset Manager

615	02	Disinvestment by resident institutional investor - Collective Investment Scheme
615	03	Disinvestment by resident institutional investor - Retirement Fund
615	04	Disinvestment by resident institutional investor - Life Linked
615	05	Disinvestment by resident institutional investor - Life Non Linked
616		Bank prudential disinvestment
617		Not allocated
618		Not allocated

(vii) Derivatives

Transaction adjustments

700		Adjustments / Reversals / Refunds related to derivatives

Derivatives (excluding inward listed)

701	01	Options – listed
701	02	Options – unlisted
702	01	Futures – listed
702	02	Futures – unlisted
703	01	Warrants – listed
703	02	Warrants – unlisted
704	01	Gold hedging – listed
704	02	Gold hedging – unlisted
705	01	Derivative not specified above – listed
705	02	Derivative not specified above – unlisted
706		Not allocated
707		Not allocated

(viii) Loan and miscellaneous payments

Transaction adjustments

800		Adjustments / Reversals / Refunds related to loan and miscellaneous payments

Loans (capital portion)

Loans granted to residents

801		Trade finance loan drawn down in South Africa
802		International Bond drawn down
803		Loan made to a resident by a non-resident shareholder
804		Loan made to a resident by a non-resident third party
805		Not allocated

Loans repaid by residents temporarily abroad

810		Repayment by a resident temporarily abroad of a loan granted by a resident

Loans repaid by non-residents

815 Repayment of an individual loan to a resident
816 Repayment of a study loan to a resident
817 Repayment of a shareholders loan to a resident

818 Repayment of a third party loan to a resident (excluding shareholders)
819 Repayment of a trade finance loan to a resident
820 Not allocated

Miscellaneous payments

830 Details of payments not classified
831 Not allocated
832 Rand drafts/cheques drawn on vostro accounts (Only applicable if no description is available)
833 Credit/Debit card company settlement as well as money remitter settlements
834 Not allocated
835 Not allocated
836 Not allocated

(G) Outward payments

(i) General

(a) Authorised Dealers must ensure the correct reporting of all cross-border foreign exchange transactions irrespective of the amounts and currencies involved.

(b) Data pertaining to transactions must be submitted to the Financial Surveillance Department in the various formats outlined in the Business and Technical Specifications document within two business days from the value date of the transaction.

(c) Rejections by the Financial Surveillance Department must be corrected and re-submitted in the agreed format within one business day from the date of the rejection.

(ii) Integrated form

(a) The integrated form is applicable to all transactions reported under the 'BOPCUS', 'NON RESIDENT RAND' and 'BOPDIR' modules. Since transactions reported under the 'BOPCARD RESIDENT' module are fully electronic, the card holder will be held responsible for transactions concluded by utilising either a debit or credit card. Transactions reported by Reporting Entities under the 'NON REPORTABLE', 'INTERBANK' and 'BOPCARD NON RESIDENT' modules do not require an integrated form.

(b) Authorised Dealers must make use of an integrated form, in respect

of all outward payments either in hard copy or electronic format, to obtain data required for the processing and reporting of all cross-border foreign exchange transactions to the Financial Surveillance Department.

(c) When the client is physically present at the Authorised Dealer, the integrated form must be completed and signed by the client in respect of all outward payments.

(d) When the client is not physically present to complete and sign the integrated form, the Authorised Dealer may complete and sign the integrated form, either physically or electronically, provided that the Authorised Dealer 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 client's behalf. The client's communication must be retained by the Authorised Dealer for a period of five years for inspection purposes.

(e) In cases where the client transacts with the Authorised Dealer via an electronic interface, the Authorised Dealer must ensure that the underlying agreements legally bind the client in terms of the correctness of the information provided via the electronic medium.

(iii) Declaration

(a) The following declaration must be included in the integrated form:

"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;

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; and

6. I consent to this information being provided to the South African Revenue Service and/or the Financial Intelligence Centre."

(H) Balance of payments categories applicable to BOPCUS and BOPDIR – outward payments

A balance-of-payment category consists of a category and in some cases a category and a sub-category is also applicable.

(i) Merchandise

Transaction adjustments

100		Adjustments / Reversals / Refunds applicable to merchandise

Imports: Advance payments (not in terms of import undertaking)

101	01	Import advance payment (excluding capital goods, gold, platinum, crude oil, refined petroleum products, diamonds, steel, coal, iron ore and goods imported via the South African Post Office)
101	02	Import advance payment – capital goods
101	03	Import advance payment – gold
101	04	Import advance payment – platinum
101	05	Import advance payment – crude oil
101	06	Import advance payment – refined petroleum products
101	07	Import advance payment – diamonds
101	08	Import advance payment – steel
101	09	Import advance payment – coal
101	10	Import advance payment – iron ore
101	11	Import advance payment - goods imported via the South African Post Office

Imports: Advance payments (in terms of import undertaking)

102	01	Import advance payment (excluding capital goods, gold, platinum, crude oil, refined petroleum products, diamonds, steel, coal and iron ore)
102	02	Import advance payment – capital goods
102	03	Import advance payment – gold
102	04	Import advance payment – platinum
102	05	Import advance payment - crude oil
102	06	Import advance payment – refined petroleum products
102	07	Import advance payment - diamonds
102	08	Import advance payment – steel
102	09	Import advance payment – coal
102	10	Import advance payment – iron ore
102	11	Import advance payment - goods imported via the South African Post Office

Imports: (excluding advance payments and not in terms of import undertaking)

103	01	Import payment (excluding capital goods, gold, platinum, crude oil, refined petroleum products, diamonds, steel, coal,

		iron ore and goods imported via the South African Post Office)
103	02	Import payment – capital goods
103	03	Import payment – gold
103	04	Import payment – platinum
103	05	Import payment – crude oil
103	06	Import payment – refined petroleum products
103	07	Import payment – diamonds
103	08	Import payment – steel
103	09	Import payment – coal
103	10	Import payment – iron ore
103	11	Import payment - goods imported via the South African Post Office

Imports: (excluding advance payments but in terms of import undertaking)

104	01	Import payment (excluding capital goods, gold, platinum, crude oil, refined petroleum products, diamonds, steel, coal, iron ore and goods imported via the South African Post Office)
104	02	Import payment – capital goods
104	03	Import payment - gold
104	04	Import payment - platinum
104	05	Import payment– crude oil
104	06	Import payment– refined petroleum products
104	07	Import payment - diamonds
104	08	Import payment– steel
104	09	Import payment– coal
104	10	Import payment– iron ore
104	11	Import payment - goods imported via the South African Post Office

Imports: Other

105		Consumables acquired in port
106		Repayment of trade finance for imports
107		Import payments where the Customs value of the shipment is less than R500
108		Import payments where goods were declared as part of passenger baggage and no MRN is available
109	01	Payments for goods purchased from non-residents in cases where no physical import will take place, excluding gold, platinum, crude oil, refined petroleum products, diamonds, steel, coal and iron ore as well as merchanting transactions
109	02	Payments for gold purchased from non-residents in cases where no physical import will take place, excluding merchanting transactions
109	03	Payments for platinum purchased from non-residents in cases where no physical import will take place, excluding merchanting transactions

109	04	Payments for crude oil purchased from non-residents in cases where no physical import will take place, excluding merchanting transactions
109	05	Payments for refined petroleum products purchased from non-residents in cases where no physical import will take place, excluding merchanting transactions
109	06	Payments for diamonds purchased from non-residents in cases where no physical import will take place, excluding merchanting transactions
109	07	Payments for steel purchased from non-residents in cases where no physical import will take place, excluding merchanting transactions
109	08	Payments for coal purchased from non-residents in cases where no physical import will take place, excluding merchanting transactions
109	09	Payments for iron ore purchased from non-residents in cases where no physical import will take place, excluding merchanting transactions
109	10	Not allocated
110		Merchanting transaction
111		Not allocated
112		Not allocated

(ii) **Intellectual property and other services**

Transaction adjustments

200	Adjustments / Reversals / Refunds applicable to intellectual property and service related items

Charges for the use of intellectual property

201	Rights obtained for licences to reproduce and/or distribute
202	Rights obtained for using patents and inventions (licensing)
203	Rights obtained for using patterns and designs (including industrial processes)
204	Rights obtained for using copyrights
205	Rights obtained for using franchises and trademarks

Acquisition of intellectual property (excluding computer related and audiovisual)

210	Acquisition of patents and inventions
211	Acquisition of patterns and designs (including industrial processes)
212	Acquisition of copyrights
213	Acquisition of franchises and trademarks

Research and development

220	Payments for research and development services
221	Funding for research and development

Audiovisual and related items

225		Acquisition of original manuscripts, sound recordings and films
226		Payment relating to the production of motion pictures, radio and television programs and musical recordings

Computer software and related items

230		The outright purchasing of ownership rights of software
231		Computer-related services including maintenance, repair and consultancy
232		Commercial purchases of customised software and related licences to use
233		Commercial purchases of non-customised software on physical media with periodic licence to use
234		Commercial purchases of non-customised software provided on physical media with right to perpetual (ongoing) use
235		Commercial purchases of non-customised software downloaded or electronically acquired with periodic licence
236		Commercial purchases of non-customised software downloaded or electronically acquired with single payment

Technical related services

240	01	Fees for processing - processing done on materials (excluding gold, platinum, crude oil, refined petroleum products, diamonds, steel, coal and iron ore)
240	02	Fees for processing - processing done on gold
240	03	Fees for processing - processing done on platinum
240	04	Fees for processing - processing done on crude oil
240	05	Fees for processing - processing done on refined petroleum products
240	06	Fees for processing - processing done on diamonds
240	07	Fees for processing - processing done on steel
240	08	Fees for processing - processing done on coal
240	09	Fees for processing - processing done on iron ore
241		Repairs and maintenance on machinery and equipment
242		Architectural, engineering and other technical services
243		Agricultural, mining, waste treatment and depollution services

Travel services for non-residents

250	Travel services for non-residents - business travel
251	Travel services for non-residents - holiday travel
252	Not allocated

Travel services for residents

255	Travel services for residents - business travel
256	Travel services for residents - holiday travel

Travel services in respect of third parties

260 Payment for travel services in respect of third parties - business travel
261 Payment for travel services in respect of third parties - holiday travel

Telecommunication and information services

265 Payment for telecommunication services
266 Payment for information services including data, news related and news agency fees

Transportation services

270 01 Payment for passenger services - road
270 02 Payment for passenger services - rail
270 03 Payment for passenger services - sea
270 04 Payment for passenger services – air
271 01 Payment for freight services – road
271 02 Payment for freight services – rail
271 03 Payment for freight services – sea
271 04 Payment for freight services – air
272 01 Payment for other transport services – road
272 02 Payment for other transport services – rail
272 03 Payment for other transport services – sea
272 04 Payment for other transport services – air
273 01 Payment for postal and courier services – road
273 02 Payment for postal and courier services – rail
273 03 Payment for postal and courier services – sea
273 04 Payment for postal and courier services – air

Financial services obtained

275 Commission and fees
276 Financial service fees charged for advice provided

Construction services

280 Payment for construction services

Government services

281 Payment for government services
282 Diplomatic transfers

Study related services

285 Tuition fees

Other business services obtained

287 Payment for legal services
288 Payment for accounting services
289 Payment for management consulting services
290 Payment for public relation services
291 Payment for advertising and market research services
292 Payment for managerial services

293 Payment for medical and dental services
294 Payment for educational services
295 Operational leasing
296 Payment for cultural and recreational services
297 Payment for other business services not included elsewhere
298 Not allocated
299 Not allocated

(iii) **Transactions relating to income and yields on financial assets**

Transaction adjustments

300 Adjustments/Reversals/Refunds related to income and yields on financial assets

Income payments

301 Dividends
302 Branch profits
303 Compensation paid by a resident to a resident employee temporarily abroad (excluding remittances)
304 Compensation paid by a resident to a non-resident employee (excluding remittances)
305 Compensation paid by a resident to a migrant worker employee (excluding remittances)
306 Compensation paid by a resident to a foreign national contract worker employee (excluding remittances)
307 Commission or brokerage
308 Rental
309 01 Not allocated
309 02 Not allocated
309 03 Not allocated
309 04 Interest paid to a non-resident in respect of shareholders loans
309 05 Interest paid to a non-resident in respect of third party loans
309 06 Interest paid to a non-resident in respect of trade finance loans
309 07 Interest paid to a non-resident in respect of a bond
309 08 Interest paid not in respect of loans
310 01 Not allocated
310 02 Not allocated
310 03 Not allocated
310 04 Not allocated
311 01 Not allocated
311 02 Not allocated
311 03 Not allocated
311 04 Not allocated
312 01 Fee in respect of inward listed securities derivatives individual
312 02 Fee in respect of inward listed securities derivatives corporate
312 03 Fee in respect of inward listed securities derivatives bank

312	04	Fee in respect of inward listed securities derivatives institution
313		Not allocated
314		Not allocated
315		Not allocated

(iv) **Transfers of a current nature**

Transaction adjustments

400		Adjustments / Reversals / Refunds related to transfers of a current nature

Current payments

401		Gifts
402		Annual contributions
403		Contributions in respect of social security schemes
404		Contributions in respect of foreign charitable, religious and cultural (excluding research and development)
405		Other donations / aid to a foreign Government (excluding research and development)
406		Other donations / aid to a foreign private sector (excluding research and development)
407		Pensions
408		Annuities (pension related)
409		Inheritances
410		Alimony
411	01	Tax - Income tax
411	02	Tax - VAT refunds
411	03	Tax – Other
412		Insurance premiums (non life/short term)
413		Insurance claims (non life/short term)
414		Insurance premiums (life)
415		Insurance claims (life)
416		Migrant worker remittances (excluding compensation)
417		Foreign national contract worker remittances (excluding compensation)
418		Value Transfer Service (Authorised providers – for statistical purposes only)
419		Not allocated

(v) **Transfers of a capital nature**

Capital transfers and emigrants

Transaction adjustments

500		Adjustments / Reversals / Refunds related to capital transfers and emigrants

Capital transfers relating to government / corporate entities (excluding loans)

501 Donations by SA Government for fixed assets
502 Donations by corporate entities for fixed assets
503 Disinvestment of property by a non-resident corporate entity
504 Investment into property by a resident corporate entity

Capital transfers by non-resident individuals

510 01 Disinvestment of property by a non-resident individual
510 02 Disinvestment by a non-resident individual - other

Capital transfers by South African resident individuals

Investment not related to the investment allowance

511 01 Investment by a resident individual not related to the investment allowance – Shares
511 02 Investment by a resident individual not related to the investment allowance – Bonds
511 03 Investment by a resident individual not related to the investment allowance - Money market instruments
511 04 Investment by a resident individual not related to the investment allowance – Deposits with a foreign bank
511 05 Investment by a resident individual not related to the investment allowance – Mutual funds / collective investment schemes
511 06 Investment by a resident individual not related to the investment allowance – Property
511 07 Investment by a resident individual not related to the investment allowance – Other
511 08 Not allocated

Investment in terms of investment allowance

512 01 Foreign investment by a resident individual in respect of the investment allowance - Shares
512 02 Foreign investment by a resident individual in respect of the investment allowance – Bonds
512 03 Foreign investment by a resident individual in respect of the investment allowance – Money market instruments
512 04 Foreign investment by a resident individual in respect of the investment allowance – Deposits with a foreign bank
512 05 Foreign investment by a resident individual in respect of the investment allowance – Mutual funds / collective investment schemes
512 06 Foreign investment by a resident individual in respect of the investment allowance – Property
512 07 Foreign investment by a resident individual in respect of the investment allowance – Other
512 08 Not allocated

513 Investment by a resident individual originating from a local source into an account conducted in foreign currency held at an Authorised Dealer in South Africa

Investment from a resident Foreign Currency account
(Note: Categories 511/01 to 511/07 must be used)

514 01 Not allocated
514 02 Not allocated
514 03 Not allocated
514 04 Not allocated
514 05 Not allocated
514 06 Not allocated
514 07 Not allocated
514 08 Not allocated

Re-transfer of capital repatriated
(Note: Categories 511/01 to 511/07 must be used)
515 01 Not allocated
515 02 Not allocated
515 03 Not allocated
515 04 Not allocated
515 05 Not allocated
515 06 Not allocated
515 07 Not allocated
515 08 Not allocated
516 Not allocated
517 Not allocated

Emigrants
530 01 Emigration foreign capital allowance – fixed property
530 02 Emigration foreign capital allowance – listed investments
530 03 Emigration foreign capital allowance – unlisted investments
530 04 Emigration foreign capital allowance – insurance policies
530 05 Emigration foreign capital allowance – cash
530 06 Emigration foreign capital allowance – debtors
530 07 Emigration foreign capital allowance – capital distribution from trusts
530 08 Emigration foreign capital allowance –other assets
531 Not allocated
532 Not allocated

(vi) **Financial investments/disinvestments and prudential investments**

Transaction adjustments
600 Adjustments / Reversals / Refunds related to financial investments/disinvestments and prudential investments

Financial investments/disinvestments (excluding local institutional investors)

Disinvestment by a non-resident

601	01	Listed shares - sale proceeds paid to a non-resident
601	02	Non-listed shares - sale proceeds paid to a non-resident
602		Disinvestment of money market instruments by a non-resident
603	01	Disinvestment of listed bonds by a non-resident (excluding loans)
603	02	Disinvestment of non-listed bonds by a non-resident (excluding loans)
604		Not allocated

Investment by a resident corporate entity

605	01	Investment into shares by a resident entity - Agriculture, hunting, forestry and fishing
605	02	Investment into shares by a resident entity - Mining, quarrying and exploration
605	03	Investment into shares by a resident entity - Manufacturing
605	04	Investment into shares by a resident entity - Electricity, gas and water supply
605	05	Investment into shares by a resident entity - Construction
605	06	Investment into shares by a resident entity - Wholesale, retail, repairs, hotel and restaurants
605	07	Investment into shares by a resident entity - Transport and communication
605	08	Investment into shares by a resident entity - Financial services
605	09	Investment into shares by a resident entity - Community, social and personal services
605	10	Not allocated

Inward listed investments

610	01	Inward listed securities equity individual
610	02	Inward listed securities equity corporate
610	03	Inward listed securities equity bank
610	04	Inward listed securities equity institution
611	01	Inward listed securities debt individual
611	02	Inward listed securities debt corporate
611	03	Inward listed securities debt bank
611	04	Inward listed securities debt institution
612	01	Inward listed securities derivatives individual
612	02	Inward listed securities derivatives corporate
612	03	Inward listed securities derivatives bank
612	04	Inward listed securities derivatives institution
613	01	Not allocated
613	02	Not allocated
613	03	Not allocated
613	04	Not allocated

Prudential investments (institutional investors and banks)

615	01	Investment by resident institutional investor – Asset Manager
615	02	Investment by resident institutional investor – Collective Investment Scheme
615	03	Investment by resident institutional investor - Retirement Fund
615	04	Investment by resident institutional investor - Life Linked
615	05	Investment by resident institutional investor - Life Non Linked
616		Bank prudential investment
617		Not allocated
618		Not allocated

(vii) **Derivatives**

Transaction adjustments

700		Adjustments / Reversals / Refunds related to derivatives

Derivatives (excluding inward listed)

701	01	Options – listed
701	02	Options – unlisted
702	01	Futures – listed
702	02	Futures – unlisted
703	01	Warrants – listed
703	02	Warrants – unlisted
704	01	Gold hedging – listed
704	02	Gold hedging – unlisted
705	01	Derivative not specified above – listed
705	02	Derivative not specified above – unlisted
706		Not allocated
707		Not allocated

(viii) **Loan and miscellaneous payments**

Transaction adjustments

800	Adjustments / Reversals / Refunds related to loan and miscellaneous payments

Loans (capital portion)

Loan repayments by residents

801	Repayment of trade finance drawn down in South Africa
802	Repayment of an international Bond drawn down
803	Repayment by a resident of a loan received from a non-resident shareholder
804	Repayment by a resident of a loan received from a non-resident third party
805	Not allocated

Loans granted to residents temporarily abroad

810 Loan made by a resident to a resident temporarily abroad

Loans granted to non-residents

815 Individual loan to a non-resident
816 Study loan to a non-resident
817 Shareholders loan to a non-resident
818 Third party loan to a non-resident (excluding shareholders)
819 Trade finance to a non-resident
820 Not allocated

Miscellaneous payments

830 Details of payments not classified
831 Rand collections for the credit of vostro accounts
832 Not allocated
833 Credit/Debit card company settlement as well as money remitter settlements
834 Not allocated
835 Not allocated
836 Not allocated

(I) Reconciliation module

(i) Reporting entities must make use of a straight through processing system, in an electronic format, which must daily account for all reportable and non-reportable transactions, including interbank transactions, reconciling all such transactions at the reporting entities and also reconciling the transactions submitted to and confirmed by the South African Reserve Bank.

(ii) In amplification of the above, the purpose is to ensure that there is reconciliation between the data on the general ledger/accounting system, the system used to submit data to the South African Reserve Bank as well as confirmation, from the South African Reserve Bank, that the data submitted was successfully received and stored.

(iii) The reconciliation module must be able to perform the following functions:

(a) compile the following daily reports from the general ledger/accounting system:

(aa) reportable transactions;

(bb) non-reportable transactions; and

(cc) interbank transactions;

(b) compile a daily report of all reportable transactions reported to the South African Reserve Bank from the system used to transmit data to the South African Reserve Bank;

(c) electronically match the reportable transactions from the daily report referred to in (a) above with the actual transactions reported to the South African Reserve Bank referred to in (b) above;

(d) compile a daily report of transactions not matched between the general ledger/accounting system of the reporting entity and the system used to transmit data to the South African Reserve Bank; and

(e) the reconciliation module must be able to create the daily report referred to in (a), (b) and (d) above in Excel or text (semicolon delimited) format and must be forwarded to the South African Reserve Bank upon request.

(iv) The data required, as per point (iii)(e) above, must contain the following information:

(a) flow (IN or OUT);

(b) transaction reference number;

(c) branch code;

(d) value date;

(e) Rand amount;

(f) foreign amount; and

(g) foreign currency code.

(v) In cases where the reporting entities change the status of transactions between reportable and non-reportable, the reconciliation module must be updated to ensure that this manual intervention does not distort the reconciliation process.

(J) Systems governance

(i) Inspection manual

The minimum information that should be contained in an inspection manual includes:

(a) a comprehensive flow diagram clearly depicting the flow of transactions through various systems (on-boarding, transactional, accounting and FinSurv Reporting System, including the

Reconciliation Module) from capturing to submission of the transactions to the Financial Surveillance Department;

(b) an up to date list of definitions, contact details of the dedicated person(s) responsible for the reporting to Financial Surveillance Department, error handling and the Reconciliation Module; and

(c) suitable back-up procedures (i.e. how often, where, when, by whom, the duration of storage that should be minimum five years and recovery testing). Refer to the inspection manual specimen which is available from the website: www.resbank.co.za by following the links: Home>Financial Surveillance>Authorised Dealers>FinSurv Reporting System>FinSurv Reporting System documents>System Governance Templates or Home>Financial Surveillance>ADLAs>FinSurv Reporting System >FinSurv Reporting System documents>System Governance Templates.

(ii) Pre and post certification managerial letter of comfort

(a) Pre certification managerial letter of comfort must be submitted to the Financial Surveillance Department prior to the inspectors conducting a systems certification of the on-boarding, transactional, accounting and FinSurv Reporting System, including the Reconciliation Module. The pre certification managerial letter of comfort provides assurance that the reporting entity's FinSurv Reporting System complies with the Financial Surveillance Department's reporting requirements. In addition, risks and controls around the systems are properly mitigated to ensure that correct, accurate and comprehensive data is submitted as well as that the respective system is ready for deployment into the production environment.

(b) Post certification managerial letter of comfort must be submitted to the Financial Surveillance Department after the on-boarding, transactional, accounting and FinSurv Reporting System, including the Reconciliation Module have been deployed in a live environment successfully for at least one month.

(c) These pre and post managerial letters of comfort should be completed by the dedicated person responsible for regulatory compliance in consultation with various governance structures within the reporting entity. Refer to the pre and post certification managerial letter of comfort specimens that are available as outlined in (i)(c) above.

(iii) Annual managerial letter of comfort

(a) The reporting entity must submit an annual managerial letter of comfort indicating that it is comfortable with the governance structures and functionality of the FinSurv Reporting System. The

letter must be submitted to the Financial Surveillance Department annually within three months after the financial year end of the reporting entity.

(b) The dedicated person responsible for regulatory compliance must be accountable for completing the annual managerial letter of comfort and obtaining confirmation from assurance providers that the independent assurance review of the on-boarding, transactional, accounting and FinSurv Reporting System, including the Reconciliation Module will form part of its ongoing reviews. In this regard, the nature of the assurance procedure must be outlined. Refer to the annual managerial letter of comfort specimen that is available as outlined in (i)(c) above.

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K. Returns and reports

The following returns and reports must be submitted to the Financial Surveillance Department by Authorised Dealers as required in terms of the applicable sections of the Authorised Dealer Manual:

(A) Return on emigrants whose assets do not exceed the sum of R10 million in the case of a single person or R20 million in the case of a family unit

See section B.2(J)(vi)(d) of the Authorised Dealer Manual.

(B) Return from insurance companies

See section B.10(D)(ii)(d) of the Authorised Dealer Manual.

(C) Returns of immigrants

See section B.5(B)(i)(a) of the Authorised Dealer Manual.

(D) Return of extensions granted to importers and exporters in terms of Exchange Control Regulations 11 and 12

See section F.2(C)(ii) of the Authorised Dealer Manual.

(E) Authorisation to travel agents, hotels, restaurants, shops and other persons whose business is directly related to the tourist industry

See section B.20(A)(iv) of the Authorised Dealer Manual.

(F) Return of South African Reserve Bank notes repatriated from countries outside South Africa

See section F.1(B)(iii) of the Authorised Dealer Manual.

(G) Report of overdrawn non-resident clearing accounts of foreign banks in excess of R25 million

See section E.(A)(ii)(c) of the Authorised Dealer Manual.

(H) Macro-prudential foreign exposure limit return

See section B.2(I) of the Authorised Dealer Manual.

(I) Report of active currency management regarding in-between trades in respect of beneficial holdings trading

See sections D.1(B)(i)(f) and (g) of the Authorised Dealer Manual.

(J) Report of active currency management regarding in-between trades in respect of forward rates applicable to each contract concluded

See sections D.1(B)(i)(f) and (g) of the Authorised Dealer Manual.

(K) Return of missing application sequence numbers

See Section A.3(B)(xxii) of the Authorised Dealer Manual.

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