



South African Reserve Bank
Financial Surveillance Department

2016-11-02

Exchange Control Circular No. 9/2016

Amendments to the Currency and Exchanges Manuals and the guideline documents

Flowing from representations made, various amendments to the Manuals and guideline documents are hereby implemented.

For ease of reference, attached is a schedule highlighting the amendments made to the applicable Manuals.

The amended Manuals and guideline documents may be accessed on the SARB website: www.reservebank.co.za by following the links: Home>Regulation and supervision>Financial surveillance and exchange controls>Currency and exchanges documents.


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Amendments to the Currency and Exchanges Manuals and the guideline documents

A. Currency and Exchanges Manual for Authorised Dealers

Item no	Section of the Manual	Amendment in the Currency and Exchanges Manual
1.	A.3(A)(vii)	<p>Duties and responsibilities of Authorised Dealers</p> <p>A new paragraph has been inserted as follows:</p> <p>(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.</p>
2.	B.1(F)(iv) & (v)	<p>Evidence of importation</p> <p>The subsections have been amended as follows:</p> <p>(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.</p> <p>(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 e-mail) 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</p>

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		<p>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.</p>
3.	B.1 (G)(iii)	<p>General – imports</p> <p>The word ‘new’ has been inserted in the heading as follows:</p> <p>(iii) Importation of new motor vehicles and caravans</p>
4.	B.2(H)(v)(c)(dd)	<p>Formats of the audit reports</p> <p>The wording ‘Portfolio auditors reports’ has been deleted and replaced with ‘Institutional Investor Auditor’s Report’ as follows:</p> <p>(dd) The formats of the audit reports may be downloaded from the South African Reserve Bank’s website: www.reservebank.co.za by following the links: Home>Regulation and supervision> Financial surveillance and exchange controls> Auditors reports and representation letters> Institutional investor auditor’s report.</p>
5.	B.2(I)(xiii)	<p>Macro-prudential limit for Authorised Dealers</p> <p>The subsection has been amended as follows:</p> <p>(xiii) Authorised Dealers will also be 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. The audit report must be submitted to the Financial Surveillance Department within a maximum period of six months after the financial year end.</p>
6.	B.2(I)(xiv)	<p>Macro-prudential limit for Authorised Dealers</p> <p>A new subsection has been added in the Authorised Dealer Manual as follows:</p>

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		(xiv) The format of the audit report may be downloaded from the South African Reserve Bank's website: www.reservebank.co.za , by following the links: Home>Regulation and supervision> Financial surveillance and exchange controls> Auditors reports and representation letters>Macro-prudential limit auditor's report.
7.	B.2(J)(vi)(a)(ff)	<p>Emigration</p> <p>The subsection has been amended as follows:</p> <p>(ff) 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;</p>
8.	B.2(J)(vi)(c)	<p>Emigration</p> <p>The subsection has been amended as follows:</p> <p>(c) Each branch must retain such Forms MP336(b) and Tax Clearance Certificates for a period of five years after all the remaining assets of an emigrant have been transferred abroad and should submit details of these emigrants to their head office.</p>
9.	B.3 (D)(i)(e)	<p>Royalty payments</p> <p>The subsection has been amended as follows:</p> <p>(e) The applicant entity must present a letter in respect of royalty payments, on an annual basis, from an 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.</p>
10.	B.3 (D)(iii)	<p>Extension of agreements</p> <p>A new subsection has been added to the Authorised Dealer Manual as follows:</p> <p>(iii) Authorised Dealers may, where applicable, approve the extension of related and/or unrelated party agreements</p>

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		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.
11.	B.3 (E)(i)	Licence agreements involving the local manufacture of goods The word 'conditions' has been deleted and replaced with the words 'set criteria'
12.	B.3 (E)(i)(b)	Licence agreements involving the local manufacture of goods A new subsection has been added as follows: (b) the Department of Trade and Industry forwards their assessment to the Financial Surveillance Department for final consideration.
13.	B.3 (E)(i)(e)	Licence agreements involving the local manufacture of goods The subsection has been amended as follows: (e) prior to effecting any payments, Authorised Dealers should view a copy of the approval letter from the Financial Surveillance Department. 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
14.	B.15(A)(iv)	Guarantees A new subsection has been added in the Authorised Dealer Manual as follows: (iv) In the event of such guarantees being implemented, Authorised Dealers may effect payment in terms thereof.
15.	G.(E)(iv)(c)	Securities lending The subsection has been amended as follows: (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

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		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.
16.	H.	The heading of the section has been amended to: Inward listings on the JSE Limited
17.	H.(A)(ii)	A new paragraph has been inserted as follows: (ii) Non-resident entities, local Authorised Dealers and the JSE Limited are the only qualifying entities allowed to issue inward listed instruments 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.
18.	H.(B)(i)(a)(aa)	Inward listings on the JSE Limited A new sentence has been inserted as follows: (aa) Foreign companies may, on application, be allowed to use their shares as acquisition currency.
19.	H.(B)(ii)(a)(aa)	The word 'foreign' has been deleted.
20.	I.3(B)(iv)(a)(dd)	Inward foreign loans A new subsection has been inserted as follows: (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.

B. Currency and Exchanges Manual for Authorised Dealers in foreign exchange with limited authority (ADLAs)

Item no	Section of the Manual	Amendment in the ADLA Manual
21.	A.3(C)(iii)(a)	<p>Adjudication process</p> <p>A new subsection has been inserted as follows:</p> <p>(a) the shareholders and/or directors are deemed as 'fit and proper' by the Financial Surveillance Department;</p>
22.	A.4(A)(vi)	<p>Duties and responsibilities of ADLAs</p> <p>A new paragraph has been inserted as follows:</p> <p>(vi) Care must be exercised by ADLAs 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.</p>
23.	B.1(B)(ii)(a)(aa)	<p>Monetary gifts</p> <p>The subsection has been amended as follows:</p> <p>(aa) ADLAs may allow resident individuals and foreign nationals that qualify to transfer monetary gifts 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.</p>
24.	B.1(B)(iv)	<p>Cross-border foreign exchange transaction reporting categories</p> <p>The category description under 303 (inward) has been amended as follows:</p> <p>Compensation paid by a non-resident to a resident employee temporarily abroad (excluding remittances).</p>
25.	B.1(C)(ii)(a)(aa)	<p>Monetary gifts</p> <p>The subsection has been amended as follows:</p>

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		(aa) ADLAs may allow resident individuals and foreign nationals that qualify to transfer monetary gifts within the limits specified under subsections (i)(b) and (c) above to non-resident individuals.
26.	B.1(C)(ii)(a)(bb)	<p>Monetary gifts</p> <p>The subsection has been amended as follows:</p> <p>(bb) For transfers in terms of (aa) above by resident individuals and foreign nationals that qualify, ADLAs are advised that the applicant must produce a valid green bar-coded South African identity document or Smart identity document card for identification purposes in addition to the normal CIV requirements.</p>
27.	B.2(G)(i)	<p>Submission of information to the Financial Surveillance Department</p> <p>The subsection has been amended as follows:</p> <p>(i) Within three months after the close of its financial year, a copy of its signed audited financial statements together with an independent audit report, i.e. a report from either an internal or external audit function depending on the size and complexity of the institution, for the corresponding period.</p>