

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; or
 - (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

(a) 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:

(aa) the agreement is between unrelated parties; and

(bb) the agreement originally entered into makes provision for an extension or an addendum to the agreement is viewed confirming the extension thereof. See section B.3(D)(ii) for a definition of related parties.

(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

without delay via the Import Verification System by completing the following steps:- Select [Verification], under [Verification options] select [No MRN], under [No MRN options] select [No MRN]. Complete the fields and in the description field add the reason why the delivery of the goods has been delayed or will not be received.

- (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 period has lapsed but not later than ten months from the original payment date, be reported to the Financial Surveillance Department following the above-mentioned steps. In the description field add 'No response from client'. In addition, a fully motivated application must also be submitted to the Financial Surveillance Department providing details of the transaction(s) (i.e. date, transaction reference number, amount and the importer's contact details).
- (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) All documentation must be retained by the client for a period of at least five years.

(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 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.reservebank.co.za, by following the links: Home>Regulation and supervision>Financial surveillance and exchange controls>Guidelines>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 Rand 20 000 000 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 on an annual basis. The letter of compliance must be e-mailed 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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