

**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	(4) Re-deposits of unused Rand withdrawn while visiting the CMA.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(l) 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; and
  - (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. merchancing 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.
- (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 debit and/or credit, 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) 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;
- (hh) 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;
- (ii) 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
- (jj) 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.

**(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.

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