



South African Reserve Bank

Financial Surveillance Department

2016-05-10

Guidelines to Authorised Dealers in respect of the opening of Foreign Bank accounts by South African companies

Authorised Dealers (AD) are advised that, to enable them to assist their customers in dealing with requests for the opening of Foreign Bank accounts, guidelines for the applicants and the ADs authorising such accounts, are set out below.

1. The onus to check compliance in regard to approved Foreign Bank accounts rests with the AD authorising such an account.
2. Only South African registered private, public and listed companies may apply to ADs to open Foreign Bank accounts (Other entities must still apply via an AD to the Financial Surveillance Department of the South African Reserve Bank (“Financial Surveillance Department”).
3. The purpose of any Foreign Bank account authorised by the AD should be to facilitate the flow to South Africa of foreign currency earned abroad as a result of the export from South Africa of goods and services to foreign buyers/users of such services (excluding transactions listed under point 9 below) as well as the accrual of foreign paid dividends into such accounts.
4. Foreign Bank accounts opened to facilitate the flow of foreign export proceeds or service related fees may not be overdrawn and all proceeds in the account must be repatriated to a resident Rand account or Customer Foreign Currency account in South Africa within 30 days of the funds being credited to the Foreign Bank account (in terms of Exchange Control Regulation 6). The only exception where Foreign Bank accounts may be

overdrawn is where short term trade/import facilities are granted to a South African company by the foreign bank concerned. Such facility must, of course, have been authorised in terms of the Rulings or through an application to the Control.

5. Clients with foreign bank accounts may under no circumstances enter into transactions with foreign banks whereby hedging arrangements or currency conversions are transacted.
6. No debits over Foreign Bank accounts other than the deduction of bank fees and the repatriation of any credit balances to South Africa may be made.
7. No credits to the Foreign Bank account may be made from South Africa without specific approval of the Financial Surveillance Department or transactions permissible in terms of the Exchange Control Rulings.
8. In addition to calling for the client's written undertaking as called for in the Rulings, ADs should call for copies of foreign bank statements at least bi-annually to ensure that conditions 3 to 6 above are complied with.
9. South African companies that wish to open Foreign Bank accounts to, inter alia, enter into foreign building contracts (bricks and mortar), trade over the internet or receive gifts or donations from abroad are still subject to an application being submitted to the Financial Surveillance Department.
10. Requests by South African companies to open Foreign Bank accounts in order to participate in foreign cash pooling, inter group lending and/or netting activities through for example centralised treasury operations should be declined.

Clients should be reminded that such activities are contrary to the current exchange control policy in force and approved Foreign Bank accounts may, under no circumstances, be used for such purposes.

11. Foreign Bank accounts opened purely to accrue foreign dividend payments on behalf of South African companies with approved foreign direct investments are exempted from the provisions of Exchange Control Regulation 6 and the funds may be used for any purpose except for investing or lending from an offshore base such funds back into the Common Monetary Area (“CMA”), i.e. creating a CMA loop structure.

The holders of such dividend accrual accounts should, however, be reminded of their obligation to annually report to the Financial Surveillance Department (via an AD) the details of their foreign dividend accruals for the financial year under review.

12. ADs should annually obtain a written confirmation from the clients’ whom they authorised to conduct Foreign Bank accounts, ensuring that the client has conducted the Foreign Bank Account within the ambit of the authority granted by the AD, and such letter should be forwarded to the Financial Surveillance Department.

In addition, the AD should inspect at least on a bi-annual basis their authorised clients bank statements and thereafter confirm annually to the Financial Surveillance Department that the client has complied with the directives of the Financial Surveillance Department in respect of:

- a. All debits entries passed over the account in accordance with the above directives;
 - b. credit balances were maintained and no unauthorised overdrawn positions occurred;
and
 - c. the 30 day rule were adhered to in that all cash balances were timeously repatriated to South Africa.
13. ADs that identify non-compliance or abuse of Foreign Bank accounts should immediately advise the Financial Surveillance Department who may instruct the client to close the Foreign Bank account and to repatriate the proceeds to South Africa. Clients should also be advised that the Financial Surveillance Department reserves the right in the event of abuse or contraventions being reported, to avail of the remedies available under the Exchange Control Regulations.

14. Where ADs are in doubt, such requests must be referred to the Financial Surveillance Department.