

## **ORDERS AND RULES UNDER THE EXCHANGE CONTROL REGULATIONS**

(as published in Government Notice R1112 of 1 December 1961 and amended up to Government Notice 956 of 2016 in *Government Gazette* No. 40526 of 30 December 2016)

### **Definition of Sterling Area**

1. In addition to the territories, viz. the Republic of South Africa and South-West Africa, mentioned in Regulation 1, the following areas are hereby declared to be included in the sterling area:-

The United Kingdom, the Channel Islands and the Isle of Man, the Commonwealth of Australia, the State of Bahrain, Bangladesh, Barbados, Botswana, the British Solomon Islands and Brunei, Ceylon, the Republic of Cyprus, Fiji, the Gambia, Ghana, Guiana, Iceland, India (including Sikkim), the Republic of Ireland, Jamaica, the Hashemite Kingdom of Jordan, Kenya, the State of Kuwait, Lesotho, Malawi, Malaysia, Malta, Mauritius, New Zealand, Nigeria, Pakistan, the State of Qatar, Sierra Leone, Singapore, the People's Democratic Republic of Yemen, Swaziland, the United Republic of Tanzania, Tonga, Trinidad and Tobago, Uganda, the United Arab Emirates, Western Samoa, Zambia, any protectorate, protected state or trust territory within the meaning of the British Nationality Acts, 1948 and 1958, and any British dominion not mentioned before, except Canada and Rhodesia.

### **Appointment of the South African Reserve Bank to carry out the functions assigned to the Treasury**

2. The Minister of Finance has appointed the South African Reserve Bank to carry out all the powers and functions assigned to the Treasury by these regulations with the exception of the powers and functions assigned to the Treasury by regulations 3(5) and (8), 16, 20 and 22.

### **Appointment of Authorised Dealers**

3. (a) The banks specified hereunder have been appointed as authorised dealers for the purposes of the regulations:

ABSA Bank Limited  
Albaraka Bank Limited  
Bank of Baroda  
Bank of China Johannesburg Branch  
Bank of India  
Bank of Taiwan South Africa Branch  
Bidvest Bank Limited  
BNP Paribas SA – South Africa Branch  
Canara Bank  
Capitec Bank Limited  
China Construction Bank, Johannesburg Branch  
Citibank, N.A., South Africa  
Deutsche Bank AG, Johannesburg Branch  
FirstRand Bank 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  
Société Générale  
Standard Chartered Bank – Johannesburg Branch  
State Bank of India  
The South African Bank of Athens Limited  
The Standard Bank of South Africa Limited

- (b) The Minister has, in terms of Regulation 19, also authorised the banks referred to in sub-paragraph (a) to order any person to furnish information required by them for the purposes of, and in connection with, their functions under the regulations.

**Exemption of Namibia, Lesotho and Swaziland from the provisions of Regulation 3**

4. In terms of Regulation 3, exemption is hereby granted from the obligation to obtain the permission of the Treasury –
- (a) to take or send out of the Republic any bank notes to Namibia, Lesotho and Swaziland;
- (b) to draw or negotiate any bill of exchange or promissory note, or to transfer any security or to acknowledge any debt, so that a right (whether actual or contingent) on the part of such person or any other person to receive a payment in the Republic is created or transferred as consideration for -
- (i) the receiving by such person or any other person of a payment or the acquisition by such person or any other person of property in Namibia, Lesotho and Swaziland; or
- (ii) a right (whether actual or contingent) on the part of such person or any other person to receive a payment or acquire property in Namibia, Lesotho and Swaziland;
- or to make or receive any payment as such consideration.

**Declaration in regard to foreign exchange proceeds of exports**

5. (Rule 5 has been repealed by Government Notice No. R.9 of 14 January 2011.)-

**Declaration of foreign assets and liabilities**

6. In terms of sub-regulation (1) of Regulation 6 and sub-regulation (1) of Regulation 7, the Treasury hereby prescribes that the declaration to be completed in respect of foreign assets and liabilities shall be in following form:-

**DECLARATION OF FOREIGN ASSETS AND LIABILITIES AS AT  
IN TERMS OF EXCHANGE CONTROL REGULATIONS 6 AND 7.**

Name and address of resident individual/ branch/ company/ unincorporated enterprise (delete inapplicable terms - see Instructions 5 and 6 below):-

I declare that the information submitted in this return is complete and correct to the best of my knowledge.

..... (Signature)

..... (Official position)

My/our bankers are (give branch address):-

**INSTRUCTIONS**

1. Returns are to be rendered to a commercial bank or the South African Reserve Bank not later than .....
2. Foreign assets and liabilities should be recorded in rand as at ..... and the rate used for converting foreign currencies as well as the basis of valuing securities, fixed property and inventories, should be stated at the end of this form.
3. Namibia, Lesotho and Swaziland should be treated as part of the domestic territory and not as foreign.
4. South African branches and subsidiaries of foreign companies are "residents" of South Africa for exchange control purposes and must report their position vis-à-vis their head offices or parent companies accordingly.
5. If doubt is experienced whether foreign activities should be regarded as those of a foreign branch, Section C below may be omitted provided that all relevant foreign assets and liabilities are reported under Sections A and B.
6. A share or beneficial interest in a foreign unincorporated enterprise(s) (i.e. partnerships, sole proprietorships, etc.) should be reported in Item 9 below and a copy of the latest balance sheet(s) of such enterprise(s) should be appended.
7. The latest balance sheet of each foreign subsidiary should be appended.

	UNITED KINGDOM  R	FEDERATION OF RHODESIA AND NYASALAND R	ALL OTHER FOREIGN COUNTRIES  R
<b>A.- Foreign assets</b>			
1. Cash at foreign banks, including foreign currency notes held in South Africa or abroad			
2. Current and other short-term foreign assets, including call and time deposits, bills and intercompany current accounts			
3. Inventories and merchandise stocks located abroad (excluding stocks in transit to South Africa)			
4. Investments in ordinary and limited vote-bearing shares of foreign companies (excluding shares listed on the Johannesburg Stock Exchange)			
5. Investments in foreign preference shares, debentures, loan-stock similar securities (excluding securities listed on the Johannesburg Stock Exchange)			
6. Mortgages and long-term loans supplied to foreign residents			
7. Capital balance due to head office in South Africa by a foreign branch(es) (must agree with Item 17 in the balance sheet of the foreign branch in Section C below)			
8. Fixed property			
9. Other foreign assets (specify)			

	UNITED KINGDOM  R	FEDERATION OF RHODESIA AND NYASALAND R	ALL OTHER FOREIGN COUNTRIES  R
<b>B.- Foreign liabilities</b>			
10. Current and other short-term liabilities to foreign residents, including inter-company current accounts and bank overdrafts abroad			
11. Debentures, loan-stock and similar securities owned or beneficially owned by foreigners			
12. Preference shares owned or beneficially owned by foreigners			
13. Ordinary and limited vote-bearing shares owned or beneficially owned by foreigners			
14. Mortgages and long-term loans (not securities) obtained from foreigners			
15. Capital liability of a South African branch (not subsidiary) to its foreign head office (i.e. excess of assets over liabilities of the branch)			
16. Other foreign liabilities (specify)			
<b>C.- Full balance sheet of all foreign branches</b>  (Note - All assets and liabilities of foreign branches, but not of subsidiaries or unincorporated enterprises, should be reported here. However, the latest balance sheets of foreign subsidiaries and unincorporated enterprises should be appended)			

	UNITED KINGDOM  R	FEDERATION OF RHODESIA AND NYASALAND R	ALL OTHER FOREIGN COUNTRIES  R
17. Capital balance due to head office in South Africa (i.e. excess of the assets over the liabilities quoted below)			
18. Current and other short-term liabilities			
19. All other liabilities of the branch(es) (specify)			
20. Total of Items 17 to 19			
21. Fixed assets of the branch(es)			
22. Investments in shares, debentures and similar securities			
23. Inventories			
24. Current and other short-term assets, including bills and cash			
25. All other assets of the branch(es) (specify)			
26. Total of Items 21 to 25			

**D. - Future commitments**

Set out below the dates and amounts of important commitments (in excess of R10 000 each) to be met to the end of ..... in the case of the liabilities quoted in Sections B and C above, and also of foreign subsidiaries and unincorporated enterprises.

ITEM NO.	DESCRIPTION OF ITEM	DUE DATE OF COMMITMENT	AMOUNT TOWARDS -		
			UNITED KINGDOM R	FEDERATION OF RHODESIA AND NYASALAND R	ALL OTHER FOREIGN COUNTRIES R
Total					

Conversion rates; basis of valuing securities, fixed property and inventories; and other notes:

.....

**Foreign exchange proceeds of exports to Lesotho, Namibia and Swaziland**

- 7. Goods exported to Lesotho, Namibia and Swaziland are hereby exempted from the provisions of sub-regulation (10)(a) of Regulation 6.

**Restriction on receiving of payments in Republic currency for exports**

- 8. In terms of the powers vested in it by Regulation 8, the Treasury hereby prescribes that, except with the permission of a bank authorised under the Exchange Control Regulations to deal in foreign exchange, Republic currency may not be received in payment by any person in respect of goods exported by him from the Republic.

**Control of capital issues - exemption and issues by local authorities**

- 9. By virtue of the powers conferred upon him by Regulation 16(2), the Minister of Finance has exempted all companies and persons from the operation of Regulation 16(1) until further notice.<sup>1</sup>

**Advice, information, permits or forms relating to Exchange Control or currency matters under the Regulations**

- 10. (a) Persons who desire information or advice on exchange or currency matters governed by the regulations or who require approval or permission in respect of exchange, currency or gold transactions so governed, should apply to the Exchange Control through their bankers in the Republic or, if they have no such bankers, through one of the banks referred to in paragraph 3 hereof.

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(Gov Notice R.663 dated 2008-06-17)

- (b) The forms of returns, applications, declarations and permits prescribed by the Treasury for use in connection with transactions governed by such of the regulations as apply to the Control, export or import, of exchange, currency or gold are not stocked by the Treasury or the Government Printer but by the banks referred to in paragraph 3 hereof, from whom they may be obtained by applicants.

### **Withdrawal of Orders and Rules**

- 11. The Orders and Rules made under the regulations published under Government Notice No. 2800 of 2 November 1951, as amended, and published under Government Notices Nos. 2801 of 2 November 1951, 3105 of 7 December 1951, 850 of 18 April 1952, 5 of 6 January 1956, 798 of 6 June 1958, 1612 of 31 October 1958, 1866 of 12 December 1958, 195 of 6 February 1959, 215 of 13 February 1959, 1115 of 24 July 1959, 1313 of 21 August 1959, 1348 of 28 August 1959, 1532 of 2 October 1959, R1902 of 25 November 1960 and 228 of 14 July 1961, are hereby withdrawn.

### **EXPLANATORY NOTE**

The withdrawal of the Government Notices referred to in paragraph 11 and their substitution by paragraphs 1 to 10 of this Government Notice, has the effect of consolidating and amending all existing Orders and Rules issued under the Exchange Control Regulations.

### **Order and general exemption in terms of Regulation 3(1)(c)**

- 12. (a) In terms of regulation 4(2) of the Exchange Control Regulations published under Government Notice R1111 of 1 December 1961, as amended, the Treasury hereby orders that all payments which a person in the Republic is under legal obligation to make to a person outside the Republic in terms of or as a result of any judgement granted by a court in the Republic, must be paid into a blocked account, as intended in regulation 4(1) of the above-mentioned Exchange Control Regulations, for the credit of such person outside the Republic, unless permission has been granted in terms of the above-mentioned Exchange Control Regulations to otherwise make such payment in a different manner.
- (b) In terms of regulation 3 of the Exchange Control Regulations published under Government Notice R1111 of 1 December 1961, as amended, the Treasury hereby exempts, in all cases where the permission of the Treasury would otherwise be necessary, any person from the obligation to obtain, as a prerequisite to the institution of any court action in connection with a transaction mentioned in regulation 3(1)(c) of the above-mentioned Exchange Control Regulations, or as a prerequisite to obtain any judgement in such court action, or to execute upon any such judgement, the permission of the Treasury.