File plan number: 14/6/2_2014

South African Reserve Bank

Financial Surveillance Department

2014-02-27

Exchange Control Circular No. 3/2014

Statement on exchange control

The attention of Authorised Dealers is drawn to the further exchange control reforms announced by the Minister of Finance in the 2014 Budget, a copy of an extract of which is attached for ease of reference.

Circulars, in amplification of the aforegoing, have also been issued today.

Head of Department

W3

Website annexure to the 2014 Budget Review

Strengthening trade and investment links with Africa

Introduction

Over the past two decades, South Africa's economic prosperity has become increasingly intertwined with that of the rest of the continent. Macroeconomic stability, political reform, favourable demographics and stronger institutions have transformed Africa into a rapidly growing region that is attracting investment. Economic growth in sub-Saharan Africa is expected to exceed 6 per cent in 2014. Africa's share of global foreign direct investment is rising. These trends contribute to a virtuous cycle of increased investment and economic growth, supported by growing consumer demand for goods and services. In contrast, wage and consumption growth has stagnated in Europe and the United States.

Government is committed to supporting the expansion of South African firms into the rest of Africa, which will be mutually beneficial and bolster long-term growth prospects on the continent. It will provide tax revenue, profits and dividends into the receiving country and to South Africa. In 2012, the rest of Africa accounted for 12 per cent of our dividend receipts and 28.2 per cent of our exports. Moreover, South Africa is a favoured hub for international companies wanting to expand into Africa. Growth has been pronounced in dynamic sectors with high growth potential, including technology, telecommunications, financial services and retail.

South Africa provides a number of natural advantages as an African hub, including advanced financial, regulatory, tax and accounting standards; a modern telecommunications network; extensive economic infrastructure; and direct air connections to most major cities on the continent and internationally.

Extending the HoldCo subsidiary regime

In 2013, the National Treasury announced that each Johannesburg Stock Exchange (JSE)-listed entity would be entitled to establish a "HoldCo" to hold African and offshore operations. Government proposes to extend the HoldCo subsidiary regime to facilitate investment into Africa and offshore.

Results of 2013 financial reforms

The effects of financial reforms announced in the 2013 Budget are summarised below:

African listings on the JSE. Government simplified foreign currency restrictions on African listings. Eighteen large African firms have inward debt and equity listings on the JSE, and, following the 2013 reforms, new listings included: the world's largest commodity firm, with operations throughout Africa; the African operations of one of the largest global banking groups; the Namibian government, which issued a sovereign bond on the JSE; an African grain derivative product; and an independent oil and gas company with production and exploration licenses in east and west Africa.

HoldCos. Over the past year, six listed companies have used the HoldCo regime to expand their operations into Africa, creating new sources of foreign exchange earnings and supporting the recovery in corporate tax revenue.

Exchange-traded funds. Restrictions on commodity-based exchange-traded funds were eased. Since the announcement, a new platinum fund provided by a South African bank attracted investment of R14.5 billion. This fund attracts both foreign and domestic investment in platinum.

Increased macroprudential limit for banks. The additional 5 percentage point allowance for African operations has facilitated further expansion of South African banks into Africa.

JSE-listed companies

Government proposes to extend the HoldCo arrangements for JSE-listed firms as follows:

- The size of allowed transfers to the HoldCo is increased from R750 million to R2 billion per year. Applications for transfers of up to 25 per cent of the listed company's market capitalisation will be considered on application to the Reserve Bank, provided there is demonstrated benefit to South Africa.
- Up to the allowed amount, there will be no restriction on transfers in and out of the HoldCo, provided such transfers are subject to regular reporting and are not undertaken to avoid tax.
- Listing of the HoldCo and joint ventures will be considered on a case-by-case basis.

Other requirements remain in place. A HoldCo must operate as a South African tax resident, and be incorporated and effectively managed and controlled in South Africa.

Unlisted companies

Unlisted companies may operate HoldCos under the same restrictions as listed companies, except that the size of transfers to the HoldCo is limited to R1 billion per year, and subject to these HoldCos having similar transparent and public reporting and disclosure requirements as listed companies.

Tax treatment

As announced in the 2013 Budget, all HoldCos may use the Treasury Management Company tax concessions – they are allowed to use their functional currency, as opposed to the rand, as a starting point for currency translations for tax purposes, providing relief for unrealised foreign currency gains or losses.

Foreign member funds

All institutional funds are currently subject to a macroprudential limit. The National Treasury proposes to introduce "foreign member funds", which are not subject to the macroprudential limit. These funds are collective investment schemes and alternative investment funds (including private equity, venture capital and hedge funds), which may source funding from:

- Non-residents
- Domestic institutional funds (subject to their macroprudential limit)
- Individuals (subject to their annual investment limit).

Foreign member funds must be domiciled, managed and tax compliant in South Africa, and are subject to registration with the Financial Services Board and the Reserve Bank.

These funds will support South Africa as a hub for African fund management. In addition, these funds will provide a new domestically-regulated channel for domestic investors to obtain foreign exposure, whilst at the same time benefit from enhanced customer protection, compared to the lack of local protection when investing directly offshore.

Accessing capital for growth into Africa

South Africa is a technology, media and telecommunications hub for Africa. The largest South African companies in this sector have expanded their work in Africa and fast-growing emerging markets. To help these firms raise capital, the National Treasury proposes the following:

- Unlisted technology, media, telecommunications, exploration and other research and development companies will be allowed to freely list offshore to raise capital for their operations, provided they retain South African incorporation, remain tax residents, are effectively controlled and managed from South Africa, and their intellectual property remains registered in South Africa. They will also need to have a secondary listing within two years in South Africa following their successful offshore listing.
- Listed companies will be allowed to freely list secondary listings and depository receipt programmes to facilitate expansion, subject to reporting requirements.
- Intellectual property generated in South Africa may be freely assigned offshore, subject to appropriate tax treatment.

Strengthening reporting of banks' foreign exposure

The National Treasury and the Reserve Bank propose a revised template for reporting banks' foreign exposure. Amendments to the MPL template are designed to more accurately reflect the true nature of the economic foreign exposures banks have. The Reserve Bank will communicate further details on the amendments as well as the implementation date to the banks in due course.

Diversifying investments through domestic channels in syndicated loans

Authorised Dealers in foreign exchange will now be allowed to participate in foreign syndicated loans, regardless of whether the borrower is a South African resident or not, provided that this is within the approved foreign exposure prudential limits applicable for banks.

Developing financial markets

To support South Africa's role as a financial centre for Africa, the following steps will be taken:

- ***Foreign market infrastructure for clearing of derivatives***: In line with South Africa's Group of 20 commitments, regulations to facilitate the operation of foreign central counterparties will be released shortly after the 2014 Budget is tabled in Parliament.
- ***Increased transparency for bond trading:*** The National Treasury has been working closely with the JSE and local banks to develop an electronic trading platform for South African government bonds to enhance regulation, liquidity and price transparency in the secondary government bond market, which in turn will encourage greater global participation in that market.

Other administrative reforms

To reduce the administrative burden and the cost of doing business for South African firms, investors and individuals, the National Treasury proposes the following administrative reforms:

- ***Customer foreign currency accounts:*** Foreign currency purchased in the spot market or the maturity proceeds of hedging contracts may be credited to a customer foreign currency account and may be utilised ('paid away') within 30 days.

- ***Credit card limit*:** Credit card payments will be increased to R50 000 per transaction.
- ***Payment for imports:*** Customers will be allowed to process advance payments for imports of up to R50 000 upon presentation of an invoice only. This replaces the requirement that customers must subsequently present documentation as evidence that goods in respect of which transfers have been effected have been cleared with Customs.
- ***Income transfers to South Africans temporarily abroad:*** South African residents temporarily abroad will be allowed income transfers from their retirement pensions or annuities.
- ***Corporate foreign direct investment:*** Corporations will be allowed to roll over their annual foreign direct investment limit to the next calendar year without submitting a new application.
- ***Unlisted shares:*** Emigrants will be allowed to transfer unlisted shares under certain conditions.

Streamlining the Exchange Control Manual

The National Treasury, working with the Reserve Bank, authorised dealers in foreign exchange, the savings industry and other interested parties, will streamline the *Exchange Control Manual* and associated rulings. The remaining prudential and capital flow management control tools will be presented in a clearer and more concise manner to improve administration

Other administrative reforms

The Reserve Bank will provide more details of these reforms. If necessary, the Governor of the Reserve Bank may prescribe additional requirements based on economic circumstances.