



South African Reserve Bank

Financial Surveillance Department

Representation letter in respect of trusts

..... (date)

The Manager

..... (Authorised Dealer)
..... (postal address)
.....
.....

Dear Sir

..... (name of local trust)
..... (full names of non-resident/emigrant beneficiary)

Exchange control application reference number..... (if known)

Representation letter for the period to (date to date)

1. I, the undersigned (full names)
in my capacity as a trustee of the (name
of trust, and Master's reference number) being duly authorised by the serving trustees do hereby make the following
declarations on behalf of the trust.

I confirm that

1.1 the trust was formed on (date);

1.2 Dr/Mr/Mrs/Ms (full names of beneficiary)
emigrated from the Common Monetary Area with effect from (date)/is a non-resident and has
never resided permanently in the Common Monetary Area (delete as applicable); and

- 1.3 the trust is a
• non-resident-funded trust
• third-party-funded trust
• pre- or post-emigration own asset trust*
• will trust
(delete as applicable).

* The assets of the post-emigration own asset trust are regarded as blocked assets and subject to the applicable
exchange control regulations and rules.

1.4 The emigrant/non-resident (delete as applicable) who has been a beneficiary from (date) enjoys a vested right/discretionary expectation (delete as applicable) to income earned by the trust, in terms of clause of the trust deed/last will and testament (delete as applicable).

1.5 I hereby confirm that

1.5.1 in respect of the trust's financial year ended (date) the following net income has accrued to/been awarded to (delete as applicable) the above-named beneficiary.

The accrual/award of income comprises the following:

| Nature of net income | Amount | Beneficiary's share |
|----------------------|----------|---------------------|
| (a) | | |
| (b) | | |
| Total | <u>R</u> | <u>R</u> |

1.6 I further confirm that

1.6.1 the majority of the trustees of the trust are South African residents and that, other than as set out in clause of the trust deed/last will and testament, there are no loaded votes or power of veto in favour of any non-resident trustees;

1.6.2 there have been no amendments to the trust deed during the period under review. (If changes have taken place, attach a copy of the Deed of Amendment highlighting the applicable amendments);

1.6.3 divided income from non-quoted companies included in this distribution to the beneficiary conforms with the representation letters furnished by the applicable non-quoted companies to the trustees; and

1.6.4 where applicable, the beneficiary (recipients) of this income distribution, being a foreign entity named is entitled thereto by virtue of the fact that the person(s) named in 1.2 above are non-residents/emigrants (delete as applicable).

2. I confirm that the distribution amounting to R is payable out of net income which is typical of the ordinary income-generating activities of the trust and/or other entities in which it has an interest and which has been earned subsequent to the emigration date, date of acquisition of the underlying investments or commencement of the right or expectation to receive such income, whichever is the latest.

3. Other than as disclosed in the representation letters referred to in 1.6.3 above and in the trust's audited annual financial statements for the year ended (date), I confirm that no portion of the net income after taxation (if applicable) out of which this distribution has been awarded, arises from

- 3.1 any significant changes by the trust
- in accounting policies;
 - in accounting estimates;

- in the nature of activities carried on; or
- in the reclassification of assets other than current assets; and

3.2 a surplus arising from the revaluation of any assets or profits accruing from the realisation of any assets other than trading assets of the trust.

Note: Details required under section 3 are not applicable to income originating from quoted companies in the Common Monetary Area.

4. I further confirm that no net income after taxation (if applicable) earned by the trust, prior to the emigration date or date of formation of the trust or commencement of the right or expectation to receive such income, whichever is the latest, will be utilised in the payment of this distribution.

5. The amount of aggregate adjusted net income available for distribution due to
(name of beneficiary) is calculated as follows:

| | Total R | Beneficiary's share R |
|--|--------------------|----------------------------------|
| Net income for the current period (taken from the latest audited annual financial statements and, in the case of an interim distribution, taken from the latest available unaudited financial statements or unaudited financial information) | | |
| Less (where applicable) amounts included in the above arising from | (.....) | |
| Extraordinary profits | | |
| Profits of a capital nature | | |
| Transfers from reserves (where such reserves were created from income earned prior to the emigration date, date of acquisition of the shares, commencement of the right or expectation to receive such income, whichever is the latest, or from income of a capital nature) | | |
| Net income for the current period | | |
| Itemised adjustments arising from sections 2 to 4 above (include a detailed calculation, if applicable) | (.....) | |
| Adjusted net income for the current period | | |
| Less tax payable (if applicable) | (.....) | |
| Adjusted net income after tax for the current period | | |
| Add balance of aggregate adjusted net income available for distribution brought forward from previous period ended (date) | | |
| Aggregate adjusted net income available for distribution | | |
| Less distributions in terms of previous authority calculated as follows: | (.....) | (.....) |
| Current period | | |
| Previous period ended.....(date) | | |
| Less distribution now awarded or proposed (remittable income) | (.....) | (.....) |
| Balance of aggregate adjusted net income available for distribution carried forward | | |

Note:

- In all instances where the trust requires the Financial Surveillance Department to disregard or include certain items that have to be taken into account, full details of the amounts involved, the nature thereof and the underlying reasons that gave rise to such transactions should be provided to enable the Financial Surveillance Department to consider the request.
 - Ensure that the balance of aggregate adjusted net income available for distribution has been agreed with the Financial Surveillance Department, where applicable.
6. To the best of my knowledge the trust is/is not (delete as applicable) an affected person as defined.
7. I am not aware of any preconditions that may have been imposed by the Financial Surveillance Department on this trust, which affect the transferability of this distribution/I confirm that the requirements of the Financial Surveillance Department under reference number(s) have been complied with (delete as applicable).
8. Permission is requested to transfer the amount of R (as calculated in section 5 above) to the beneficiary named above.
9. I confirm that provision has been made for the payment of any taxes due thereon.
10. I declare that all the particulars given in this representation letter are correct and complete.

Yours faithfully

Trustee
Duly authorised

Definitions for purposes of this letter

1. **An affected person**
A body corporate, foundation, trust or partnership operating in the Republic of South Africa (the Republic), or an estate, in respect of which
- (i) 75 per cent or more of the capital, assets or earnings thereof may be utilised for payment to, or to the benefit in any manner of, any person who is not resident in the Republic; or
 - (ii) 75 per cent or more of the voting securities, voting power, power of control, capital, assets or earnings thereof, are directly or indirectly vested in, or controlled by, or on behalf of, any person who is not resident in the Republic.
2. **Trust**
- Own asset trust**
An *inter vivos* trust established in the Common Monetary Area in which the funder is also a beneficiary, either directly or indirectly.
- Non-resident-funded trust**
An *inter vivos* trust established in the Common Monetary Area where the funding of the trust originates from non-resident funds.
- Third-party-funded trust**
An *inter vivos* trust established in the Common Monetary Area in which the funder and beneficiary, either directly or indirectly, are not one and the same person.
- Will trust**
A trust created in terms of a last will and testament consisting of assets emanating from the deceased estate in the Common Monetary Area.