



SOUTH AFRICAN RESERVE BANK

Media release

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SARB Phala Phala Report

The South African Reserve Bank (SARB) finalised its investigation and report into the Phala Phala matter on 14 August 2023.

The investigation was launched on the back of the allegations by Mr Arthur Fraser, on or about 1 June 2022, and the subsequent receipt by the SARB of complaints from various parties, including political parties.

Due to legislative requirements and constraints which apply to the SARB, the report by the SARB into this matter is a private internal report and will not be made available to the public. However, given the fact that this is a matter of significant public importance, the SARB provides the following information:

Investigative process followed:

The Financial Surveillance Department (FinSurv) of the SARB conducted its investigation in two phases. The initial phase involved a consideration of internal information and databases and the analysis of cross-border foreign exchange transactions over the relevant period. This was followed by a more comprehensive phase involving FinSurv requesting and receiving additional information and documents, supplemented by statements and/or affidavits and thereafter, conducting interviews with various individuals and liaising with other parties. FinSurv also sought and obtained legal advice in relation to its investigation and the process it followed.

Based on the information, documentation and evidence received and considered as part of the investigation, the legal framework applicable to exchange controls, the mandate of the SARB and FinSurv and legal advice, the SARB then finalised its investigation and report in this matter.

Duration and extent of the investigation:

The investigation was undertaken over a period of approximately a year and was a comprehensive investigation, having regard to the limited mandate of the SARB and FinSurv in this matter, namely whether there were exchange control violations (which we address more fully hereunder) and involved, among other things:

- considering dozens of documents and related information, running into hundreds of pages;
- obtaining and/or considering no less than 15 affidavits or statements;
- liaising with other parties including relevant authorities; and
- undertaking formal interviews with the relevant individuals.

It is pertinent to recognise that the scope and purpose of the investigation and report in this matter are limited to whether there were exchange control violations, in terms of the Exchange Control Regulations of 1961, in respect of the foreign currency allegedly stolen from the Phala Phala farm on 9 February 2020. This is the mandate of the SARB in this matter. Other matters and where they may relate to the breach (if any) of any other law or otherwise, are matters which are to be addressed by the relevant authorities (not the SARB).

The SARB's finding is as follows:

On the facts available to it, the SARB finds that there was no perfected transaction and thus the SARB cannot conclude that there was any contravention of the Exchange Control Regulations (the applicable Regulation is Regulation 6(1)) by Ntaba Nyoni Estates CC (the entity involved) or for that matter by the President. That is because the SARB has concluded that the transaction in question was subject to conditions precedent which were not fulfilled, and therefore there was no legal entitlement, within the meaning of Regulation (6)(1), on the part of Ntaba Nyoni Estates CC, to the foreign currency.

The Governor will provide feedback within the applicable legal constraints to Parliament during the SARB's upcoming engagement with Parliament.

END

Contact: Thoraya Pandey 082 416 8416
Issued by SARB Media Relations
media@resbank.co.za