

Financial Surveillance Department

2011-01-25

Exchange Control Circular No. 2/2011

International Headquarter Companies

Authorised Dealers are referred to Exchange Control Circular No. 41/2010 dated 2010-11-05 and advised that in support of the broader strategy to make South Africa the gateway into Africa, foreign persons may establish headquarter companies in South Africa. Such persons may, subject to approved registration with the Financial Surveillance Department, raise and deploy capital offshore without restriction.

In view of the aforementioned, a new subsection (vi) has been added to Section B.2(B) of the Exchange Control Rulings:

“(vi) International Headquarter Companies

- (a) Headquarter companies who meet the following shareholding and asset criteria may register for approval with the Financial Surveillance Department to invest offshore without restriction:
 - (aa) No shareholder in the headquarter company whether alone or together with any other company forming part of the same group of companies as a shareholder may hold less than 20 per cent of the shares and voting rights;
 - (bb) the shares and/or debt of the headquarter company may not be listed on the JSE Limited nor may the shares in the headquarter

company be directly or indirectly held by a shareholder with shares or debt listed on the JSE Limited;

- (cc) no more than 20 per cent of the headquarter company shares may be directly or indirectly held by residents; and
- (dd) at the end of each financial year, at least 80 per cent of the assets of the holding company must consist of foreign assets.

For the purposes of the above requirements, cash, cash equivalents and debt with a term of less than one year should not be taken into account.

- (b) Registration with the Financial Surveillance Department will remain valid for as long as the criteria in (a) above is adhered to for the duration of that year of assessment as well as all previous years of assessment.
- (c) Reporting of the extent of the offshore investments will be required for statistical purposes which must, *inter alia*, include the source of funds, new or existing funds, destination, loan funds from local sources, etc.
- (d) Headquarter companies will be treated, for exchange control purposes, as non-resident companies other than for their reporting obligations. Transactions by South African entities with headquarter companies will, therefore, be viewed as transactions with non-residents.
- (e) Headquarter companies can freely borrow from abroad and such funds may be deployed locally or offshore. These transactions are regarded as occurring outside South Africa.
- (f) Any lending by local banks to headquarter companies will form part of the banks' macro prudential limits."

Replacement pages of the Exchange Control Rulings incorporating the relevant amendments are attached hereto.

Deputy General Manager