



South African Reserve Bank

Financial Surveillance Department

2012-09-20

**Exchange Control Circular No. 13/2012**

**Treasury Outsourcing Companies and Foreign Exchange Brokers**

Flowing from a market study of the foreign exchange dealings by Treasury Outsourcing Companies and Foreign Exchange Brokers in the domestic foreign exchange market, it has been decided to incorporate the following guidelines and procedures in the Exchange Control Rulings to ensure consistency and a level playing field for all participants.

In view of the aforementioned, Authorised Dealers are advised of the following amendments to the Exchange Control Rulings:

A new Section A.5 has been created as follows:

"A.5

**GUIDELINES AND PROCEDURES IN RESPECT OF TREASURY OUTSOURCING COMPANIES AND FOREIGN EXCHANGE BROKERS**

**(A) GENERAL**

Treasury Outsourcing Companies and Foreign Exchange Brokers must conduct their business through an Authorised Dealer. The guidelines for the conduct and regulating of Treasury Outsourcing Companies and Foreign Exchange Brokers, excluding Interbank Brokers who are appointed on application, are contained in this Section.

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**(B) LEGISLATION**

Authorised Dealers must ensure that their dealings with Treasury Outsourcing Companies and Foreign Exchange Brokers are strictly in accordance with the provisions of the Regulations, in particular Regulation 2 which stipulates *inter alia*, that no person other than an Authorised Dealer appointed by the Treasury, shall deal in foreign currency.

**(C) APPLICATION PROCEDURE**

(i) Treasury Outsourcing Companies and Foreign Exchange Brokers must obtain approval from the Financial Surveillance Department through an Authorised Dealer prior to commencing any foreign exchange business.

(ii) Applications to the Financial Surveillance Department should include, *inter alia*, the following:

a) Full details of the applicant company; and

b) the operating business model to be followed by the applicant.

**(D) CONDITIONS FOR CONDUCTING THE BUSINESS OF A TREASURY OUTSOURCING COMPANY AND FOREIGN EXCHANGE BROKER**

(i) Applicants may not buy or sell foreign currency for their own account and may not hold foreign currency or borrow or lend foreign currency;

(ii) applicants may only act in the market as intermediaries, never as principal and should accordingly match a principal client with an Authorised Dealer. Prior to such business being conducted they should be properly mandated to act as agents on behalf of their clients. In addition, the services provided by applicants may include identifying, monitoring and mitigation of foreign risks as well as completion and handling of documentation, general administration of client's foreign



exchange exposure and conclusion of spot/forward transactions with an Authorised Dealer;

- (iii) all foreign exchange transactions must be concluded and settled between the Authorised Dealer and the client, i.e. the client must at all times be principal to all the foreign exchange transactions. The settlement of foreign exchange transactions must, accordingly, be accommodated through the bank account of the client and not that of the Treasury Outsourcing Company or Foreign Exchange Broker;
- (iv) Authorised Dealers must ensure that all cross-border reporting and documentary evidence are at all times completed in the name of the client;
- (v) any fees charged for the services provided by the applicant must be invoiced and settled in Rand and be fully disclosed to the client;
- (vi) the requirements of the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001) should be complied with by the Authorised Dealer concerned;
- (vii) the Financial Surveillance Department has the right at any stage to carry out an inspection of the applicant's activities, records, management controls and any other aspects deemed necessary; and
- (viii) the Financial Surveillance Department may impose any further conditions it may deem necessary."

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

  
**Deputy General Manager**