Financial Surveillance Department

2013-08-02

Exchange Control Circular No. 19/2013

Effect of the judgment of the North Gauteng High Court in the matter between Mr Mark Richard Shuttleworth and the South African Reserve Bank and others

Authorised Dealers are referred to recent press reports about an application by Mr Mark Shuttleworth, in 2010, before the North Gauteng High Court contending that the whole of the exchange control system, including the Currency and Exchanges Act, 1933 (Act No. 9 of 1933) ("the Act") and the Exchange Control Regulations ("the Regulations") in terms of which the exchange control system operates, was unconstitutional and thus to be struck down by the Court.

On 18 July 2013, the North Gauteng High Court issued its judgment on Mr Shuttleworth's application, the salient details of which are as follows:

- The Court rejected Mr Shuttleworth's contention that the exchange control system, as a whole, and the legislation and Regulations which comprise the system, are unconstitutional. Instead, the Court upheld the constitutional validity of the exchange control system. Authorised Dealers are advised that the effect of the judgment of the Court is that the exchange control system and the administration thereof remain unchanged.

- The Court declared Section 9(3) of the Act unconstitutional. This declaration is subject to confirmation by the Constitutional Court. The Court also declared certain Regulations unconstitutional, which declaration of invalidity has been suspended for 12 months. It is important for all Authorised Dealers to note that

PO Box 3125 Pretoria 0001 · 370 Helen Joseph (formerly Church) Street Pretoria 0002 · South Africa · Tel +27 12 3133911 0861 12 7272 · Fax +27 12 3133771 +27 12 313 3133 · www.reservebank.co.za

the provisions in question therefore remain of full force and effect.

The South African Reserve Bank is currently considering its position.

Deputy General Manager