



14/6/2\_2023

2023-05-23

## **Exchange Control Circular No. 6/2023**

### **Foreign currency holdings and other foreign assets held by private individuals**

We refer to Exchange Control Circular No. 7/2022 and advise that flowing from representations by Authorised Dealers, section B.17 of the Currency and Exchanges Manual for Authorised Dealers (Authorised Dealer Manual) has been revised to provide further clarity in respect of foreign currency holdings and other foreign assets held by private individuals (natural persons) resident in South Africa.

**The entire section has been deleted and replaced with the following:**

#### **B.17 Foreign currency holdings and other foreign assets held by private individuals (natural persons) resident in South Africa**

##### **(A) Foreign earned income**

- (i) Private individuals (natural persons) resident in South Africa are exempted from the provisions of Regulations 6 and 7 in respect of foreign earned income with effect from 1997-07-01 (i.e. income earned on approved foreign assets or in respect of services rendered to non-residents while physically abroad), with the exception of the proceeds of merchandise exports, which must be repatriated to South Africa within 30 days from the date of becoming entitled thereto.

**(B) Foreign inheritance and legacies from bona fide non-resident estates**

- (i) Private individuals, who inherited foreign assets from a non-resident after 1998-03-17 are exempted from the provisions of Regulations 6 and 7.
- (ii) Private individuals need not declare to their Authorised Dealer inheritances or legacies from bona fide foreign estates that accrued after 1998-03-17 and may retain the capital and any income generated thereon abroad.
- (iii) Contraventions that occurred on or before 1998-03-17 must still be regularised with the Financial Surveillance Department.

**(C) Gifts and/or donations from non-residents**

- (i) Any foreign asset received by a private individual from a non-resident as a gift or donation on or after 2022-02-23 is exempted from the provisions of Regulations 6 and 7, subject to local tax disclosure and compliance.
- (ii) Contraventions that occurred before 2022-02-23 must still be regularised with the Financial Surveillance Department.

**(D) Foreign inheritance and legacies from South African estates with foreign assets**

- (i) Private individuals, who on or after 2022-02-23 became entitled to a foreign inheritance from the estate of a private individual, are exempted from the provisions of Regulations 6 and 7, subject to local tax disclosure and compliance.
- (ii) However, in respect of assets that accrued to private individuals prior to 2022-02-23 or where the foreign assets inherited were held by the

deceased in a manner contrary to the provisions of the Regulations, an application for regularisation of such assets must be submitted via an Authorised Dealer to the Financial Surveillance Department.

**(E) Residents**

- (i) Private individuals and foreign nationals who are holders of foreign currencies outside South Africa must, unless exempted elsewhere in the Authorised Dealer Manual, offer to sell their holdings to an Authorised Dealer within 30 days from the date of becoming entitled thereto.
- (ii) Attention has repeatedly been drawn to the obligations imposed on residents by Regulation 6 and a serious view will be taken by the Financial Surveillance Department of any unauthorised retention of foreign currency balances, whether with foreign banks, overseas principals, agents or shippers.

**(F) Disposal of legal foreign assets held by private individuals**

- (i) Private individuals may with effect from 2022-02-23 dispose of their authorised foreign assets to other private individuals without the specific prior written approval of the Financial Surveillance Department, subject to local tax disclosure and compliance by the relevant parties. In this regard, the private individuals are exempted from the provisions of Regulations 6 and 7.
- (ii) It should be noted that where the authorised foreign asset is sold to a private individual with recourse to South Africa, the transfers in payment thereof must be dealt with in terms of the R10 million foreign capital allowance and/or the R1 million single discretionary allowance.
- (iii) Any sale of the authorised foreign assets to private individuals where payment will take place locally in Rands resulting in no cross-border flow of funds other than change of ownership, such transactions must

be referred to the Financial Surveillance Department and will also be subject to local tax disclosure as well as compliance by the relevant parties.

- (iv) Contraventions that occurred before 2022-02-23 must still be regularised with the Financial Surveillance Department.

**(G) Donations of legal foreign assets held by private individuals**

- (i) Private individuals may with effect from 2022-02-23 donate authorised foreign assets to other private individuals, subject to local tax disclosure and compliance by the relevant parties. In this regard, the private individuals are exempted from the provisions of Regulations 6 and 7.
- (ii) The donations may also be retained abroad without the specific prior written approval of the Financial Surveillance Department, subject to local tax disclosure and compliance by the relevant private individuals.
- (iii) Contraventions that occurred before 2022-02-23 must still be regularised with the Financial Surveillance Department.

**(H) Lending of legal foreign assets held by private individuals**

- (i) Private individuals may with effect from 2022-02-23 lend authorised foreign assets to residents, including trusts, subject to local tax disclosure and compliance by the relevant parties.
- (ii) The local borrower is exempted from the provisions of Regulations 6 and/or 7.
- (iii) Where the authorised foreign assets are lent to other residents for use abroad, such transactions must take place without any recourse to South Africa. Any arrangements to repay such foreign commitments from South Africa and/or for repayments to take place locally in Rands,

such transactions must be referred to the Financial Surveillance Department.

- (iv) Where the authorised foreign assets are lent to other residents for use locally, the provisions of section 1.3(B) of the Authorised Dealer Manual must be adhered to.
- (v) Contraventions that occurred before 2022-02-23 must still be regularised with the Financial Surveillance Department.

The amended Authorised Dealer Manual and guideline documents may be accessed on the South African Reserve Bank website, [www.resbank.co.za](http://www.resbank.co.za) by following the path: Home>What we do>Financial Surveillance>Financial Surveillance documents.

**Acting Head of Department: Financial Surveillance**