



Exchange Control and Legal Services Department

Version control sheet for the Currency and Exchanges Manual for Businesses

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## **Disclaimer**

The Currency and Exchanges guidelines for business entities (guidelines) are issued to assist business entities and other interested parties by providing a general understanding of the exchange control system in the Republic of South Africa. It does not have any statutory force nor does it replace or supersede the Exchange Control Regulations (Regulations) promulgated in terms of section 9 of the Currency and Exchanges Act, 1933 (Act No. 9 of 1933) or any permission, exemption or condition granted or attached to certain transactions in terms of the Regulations.

The arrangements set out in the guidelines should in no manner be construed as absolving business entities from their duties and obligations under any other law, including but not limited to the Prevention of Organised Crime Act, 2004 (Act No. 29 of 2004), the Financial Intelligence Centre Act, 2012 (Act No. 13 of 2012) and the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2014 (Act No. 4 of 2014).

The Exchange Control and Legal Services Department views contraventions of the Exchange Control Regulations, as well as any actions to circumvent the permissions and conditions contained in the Currency and Exchanges Manual for Authorised Dealers in foreign exchange (Authorised Dealer Manual) and the Currency and Exchanges Manual for Authorised Dealers in foreign exchange with limited authority (ADLA Manual) in a serious light.

The Exchange Control Regulations, Orders and Rules, Authorised Dealer Manual and the ADLA Manual are available on the Bank of Namibia's website: [www.bon.com.na](http://www.bon.com.na).

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## Definitions

In the Currency and Exchanges guidelines for business entities, unless the context indicates otherwise:

**ADLA** means an Authorised Dealer in foreign exchange with limited authority, who are authorised by the Exchange Control and Legal Services Department to deal in foreign exchange transactions as determined by the Exchange Control and Legal Services Department.

**ADLA Manual** means the Currency and Exchanges Manual for ADLAs issued by the Exchange Control and Legal Services Department to ADLAs under the powers delegated by the Minister of Finance. The ADLA Manual contains the permissions, conditions and limits applicable to the transactions in foreign exchange that may be undertaken by ADLAs and/or on behalf of their clients, as well as details of related administrative responsibilities.

**Affected person** means a body corporate, foundation, trust or partnership operating in Namibia, or an estate, in respect of which:

- (i) 75 per cent or more of the capital, assets or earnings thereof may be utilised for payment to, or to the benefit in any manner of, any person who is not resident in South Africa; or
- (ii) 75 per cent or more of the voting securities, voting power, power of control, capital, assets or earnings thereof, are directly or indirectly vested in, or controlled by or on behalf of, any person who is not resident in South Africa.

**Africa** means any country forming part of the African Union.

**Authorised Dealer** means, in relation to any transaction in respect of gold, a person authorised by the Exchange Control and Legal Services Department to deal in gold and, in relation to any transaction in respect of foreign exchange, a person authorised by the Financial Surveillance Department to deal in foreign exchange.

**Authorised Dealer Manual** means the Currency and Exchanges Manual for Authorised Dealers issued by the Exchange Control and Legal Services Department to Authorised Dealers under the powers delegated by the Minister of Finance. The Authorised Dealer Currency and Exchanges Manual contains the permissions, conditions and limits applicable to the transactions in foreign exchange that may be undertaken by Authorised Dealers and/or on behalf of their clients, as well as details of related administrative responsibilities.

**Capital goods** mean tangible items (property, plant and equipment) that:



- (i) are held for use in the production or supply of goods and services, for rental to others or for administrative purposes; and
- (ii) are expected to be used during more than one period.

**CFC account** means a Customer Foreign Currency account conducted by residents in the nostro administration of an Authorised Dealer, in terms of the provisions of the Authorised Dealer Manual or in terms of a specific authority granted by the Exchange Control and Legal Services Department. Such accounts are held onshore and represent local assets denominated in foreign currency.

**CMA** means the Common Monetary Area, which consists of Lesotho, Namibia, South Africa and Swaziland.

**Cross-border foreign exchange transaction** means the purchase or sale of foreign currency with or for Namibia Dollars.

**Customs** means Customs and Excise, a division of the Ministry of Finance.

**Emigrant** means a Namibian resident who is leaving or has left Namibia to take up permanent residence or has been granted permanent residence in any country outside the CMA.

**Financial assistance** includes the lending of currency, the granting of credit, the taking up of securities, the conclusion of a hire purchase or a lease, the financing of sales or stocks, discounting, factoring, the guaranteeing of acceptance credits, the guaranteeing or acceptance of any obligation, a suretyship, a buy-back and a leaseback, but excluding:

- (i) the granting of credit by a seller in respect of any commercial transaction directly involving the passing of ownership of the goods sold from seller to purchaser; and
- (ii) the granting of credit solely in respect of the payment for services rendered.

**Exchange Control and Legal Services Department** means the Exchange Control and Legal Services Department of the Bank of Namibia (responsible for the administration of exchange control on behalf of the Treasury).

**Foreign bank account** means a foreign currency bank account conducted by residents with a bank outside the CMA in terms of the provisions of the Authorised Dealer Manual or a specific authority granted by the Exchange Control and Legal Services Department.

**Foreign currency** means any currency other than currency, which is legal tender in Namibia, but excludes the currencies of Lesotho, South Africa and Eswatini. Foreign currency is deemed to include any bill of exchange, letter of credit, money order, postal

order, promissory note, Namibia Dollars to or from a Non-resident Rand account, travellers cheque or any other instrument of foreign exchange.

**Foreign currency account** means an account conducted by residents and non-residents in the nostro-administration of Authorised Dealers in terms of the

provisions of the Authorised Dealer Manual or a specific authority granted by the Exchange Control and Legal Services.

**Foreign direct investment** means the objective of obtaining a lasting interest by a resident entity in one economy (direct investor) in an entity resident in an economy other than that of the investor (direct investment enterprise). The lasting interest implies the existence of a long-term relationship between the direct investor and the direct investment enterprise, and a significant degree of influence on the management of the direct investment enterprise. A direct investment enterprise is defined as “an incorporated or unincorporated enterprise in which a foreign investor owns 10 per cent or more of the ordinary shares or voting power of an incorporated enterprise or the equivalent of an unincorporated enterprise.”

**Gold** as referred to in Regulations 2 and 5 includes all forms of gold other than wrought gold, as well as ingots, amalgam, concentrates or salts of gold buttons and trade scrap. Gold as referred to in Regulation 3 includes wrought gold and gold coins.

**Immigrants** mean natural persons who emigrated from countries outside the CMA with the firm intention of taking up or who have taken up permanent residence in South Africa.

**Integrated form** means the electronic or paper format of a contract between an Authorised Dealer or ADLA and its client resulting in a balance-of-payments reporting obligation. It includes a declaration to the effect that the information provided is true and correct.

**Non-resident** means a person (i.e. a natural person or legal entity) whose normal place of residence, domicile or registration is outside the CMA.

**Non-resident area** means all countries other than those included in the CMA.

**Non-resident Namibia Dollars account** means the Namibia Dollars account of a non-resident conducted in the books of an Authorised Dealer.

**Passenger ticket** means a ticket issued in respect of travel arrangements, inclusive of electronically issued tickets (e-tickets).

**Rand** means the monetary unit of South Africa as defined in section 15 of the South African Reserve Bank Act, 1989 (Act No. 90 of 1989).

**Regulations** mean the Exchange Control Regulations, 1961 as promulgated by Government Notice R.1111 of 1961-12-01, as amended from time to time.



**Reporting System** means the electronic Reporting System used to transmit data to the Exchange Control and Legal Services Department in an agreed format.

**Resident** means any person (i.e. a natural person or legal entity) who has taken up permanent residence, is domiciled or is registered in Namibia. For the purpose of the Authorised Dealers Manual, this excludes any approved offshore investments held by Namibian residents outside the CMA. However, such entities are still subject to the financial surveillance rules and the Regulations.

**Resident temporarily abroad** means any resident who has departed from South Africa to any country outside the CMA with no intention of taking up permanent residence or who has not been granted permanent residence in another country, excluding those residents who are abroad on holiday or business travel.

**SADC** means the Southern African Development Community consisting of Angola, Botswana, Democratic Republic of the Congo, Lesotho, Madagascar, Malawi, Mauritius, Mocambique, Namibia, Seychelles, South Africa, Eswatini, United Republic of Tanzania, Zambia and Zimbabwe.

**IRD** means the Inland Revenue Directorate.

**SAD Customs Declaration** comprises the following set of documents:

- (i) **SAD500 Customs Declaration form**, which is the form used by Customs to verify importers or exporters' self-assessment of goods declared for a Customs procedure. The customs procedure is defined by the Procedure Category Code (A to L) in conjunction with the Customs Requested Procedure Code (RPC) on the declaration; and
- (ii) **SAD500 Customs Supporting documentation**, which is the commercial documents (e.g. suppliers invoice, regulatory permit, transport document, currency conversion/duty calculation worksheet) upon which the Customs Declaration form is completed; and

**Securities** include quoted stocks, shares, warrants, debentures and rights, as well as unquoted shares in public companies, shares in private companies, Government, Municipal and Public utility stocks, non-resident owned mortgage bonds and/or participations in mortgage bonds and short-term debt instruments. The terms scrip and share certificates include any temporary or substitute documents of title such as Letters of Allocation, Warrants, Letters of Allotments, Orphan Certificates, Balance Receipts and any other receipts for scrip.

**Namibia** means the Republic of Namibia.

**Treasury** means, in relation to any matter contemplated in the Regulations, the Minister of Finance or an officer in National Treasury who, by virtue of the division of work in National Treasury, deals with the matter on the authority of the Minister of Finance.



## 1. Introduction

This document provides an overview of permissible foreign exchange related transactions and the applicable requirements for Namibian registered business entities when transacting with Authorised Dealers or ADLA within the parameters of their respective licenses.

The foreign exchange restrictions on Namibian resident business entities have over the last few years been liberalised with the intention to reduce the administrative burden for businesses undertaking foreign exchange transactions.

In this regard, the various dispensations and applicable disciplines listed hereunder are available to business entities to conduct cross-border foreign exchange business.

Enquiries must be directed to an Authorised Dealer or, where applicable, an ADLA. Any request to the Exchange Control and Legal Services Department must be channelled through an Authorised Dealer or ADLA. Full details applicable to the request must be provided to the Authorised Dealer or ADLA who will place a comprehensive request before the Exchange Control and Legal Services Department.

## 2. Authorised Dealers

The following institutions have been licensed to deal in foreign exchange in terms of Exchange Control Regulation 2(2).

### 2.1. Authorised Dealers

The offices in Namibia of the under-mentioned banks are authorised to act, for the purposes of the Regulations, as Authorised Dealers:

**Banco Privado Atlantico -Europa, S.A.- Namibia Branch**

**BankBic Namibia Limited**

**Bank Windhoek Limited**

**First National Bank of Namibia Limited**

**Letshego Bank Namibia Ltd**

**Ned Bank Namibia Limited**



## **Standard Bank of Namibia Limited**

### **2.2. Authorised Dealers in foreign exchange with limited authority**

The offices in Namibia of the under-mentioned entities are authorised to act, for the purposes of the Regulations, as ADLAs:

**Cambio Express Exchange Bureau (Pty) Limited**

**Cambio Seguro Foreign Exchange (Pty) Limited**

**Casa de Cambio Forex (Pty) Limited**

**Interchange Money Exchange Namibia (Pty) Limited**

**Magnet Bureau de Change (Pty) Limited**

**Namibia Bureau de Change (Pty) Limited**

**Novacambios Namibia (Pty) Limited**

**Real Transfer Bureau de Change (Pty) Limited**

### **3.0. Transactions with Common Monetary Area residents**

There are no foreign exchange restrictions between banks of the Common Monetary Area (CMA) member countries in respect of cross-border transactions amongst themselves. Lesotho, South Africa and Eswatini have their own monetary authorities and legislation. The application of exchange control within the CMA is governed by the Multilateral Monetary Agreement. Investments and transfers of funds in Namibia Dollars to/from other CMA countries do not require the approval of the Exchange Control and Legal Services Department.

CMA country currencies comprise of the following: South African Rand, Lesotho Maloti, Eswatini Emalangeneni and Namibian Dollar.

### **4.0. Capital transfers**

#### **4.1. Outward foreign direct investments for private, public and listed companies**



- (a) Authorized Dealers are advised that companies wishing to invest outside the Common Monetary Area must lodge an application via their Authorised Dealer when complying with the conditions stated below:
  - (b) Companies wishing to invest outside the CMA have to demonstrate longer term benefit to the Republic, e.g. enhance earnings derived from the export of goods and services.
- Applications to Exchange Control for making direct investments abroad should, inter alia, include the following:
- (aa) The business plan of the applicant;
  - (bb) full details of the longer term monetary benefit (excluding dividend flows) to be derived by the Republic on a continuous basis, substantiated by cash flow forecasts;
  - (cc) a pro forma Balance Sheet of the offshore entity reflecting the financial position immediately prior to and after the investment from Namibia;
  - (dd) the names and domicile of the shareholders of the applicant company;
  - (ee) the proposed financial structure of the entity to be acquired or to be established, i.e. issued share capital, loan funds, guarantees to be issued from the Republic or credit facilities to be availed of abroad and the respective amounts involved, etc.;
  - (ff) the manner in which the funds required will be employed; and
  - (gg) an estimate of the annual running expenses of the offshore entity.
- (c) Whilst there are no exchange control limits on new outward foreign direct investments by Namibian companies, Exchange Control reserves the right to stagger capital outflows relating to very large foreign investments so as to manage any potential impact on the foreign exchange market.
  - (d) In addition to the afore-going, companies wishing to invest in countries outside CMA may apply to Exchange Control to engage in corporate asset or share swap transactions in order to fund such investment or to repay existing offshore debt. Similarly, requests for share placements offshore by locally listed companies will also be considered.



- (e) Companies which have existing approved subsidiaries abroad are allowed to expand such activities abroad without prior Exchange Control approval, provided that such expansion is financed by foreign borrowing (with no recourse to or guaranteed from Namibia) or by employment of profit earned by that subsidiaries, subject to the expansion being in the same line of business and that benefit to Namibia can be demonstrated. The local parent company is required to place their proposed plans for the expansion of the investment on record with Exchange Control at an early stage.

The retention of any balance of the profits earned would, bearing in mind the provisions of Regulations 6, have to be negotiated with Exchange Control at the time of the normal annual report back.

- (f) Dividends repatriated from abroad by Namibian companies during the period 2003.02.26 to 2004.10.26 (dividend credits) automatically form part of domestic funds and may be allowed to be retransferred abroad for the financing of approved foreign direct investment or approved expansions, but may not be transferred abroad for any other purpose.
- (g) Dividends declared by offshore subsidiaries of Namibian Companies after 2004.10.26 may be retained offshore and used for any purpose, without any recourse to Namibia. Such dividends repatriated to Namibia after 2004.10.26 may be retransferred abroad at any time and used for any purpose, provided that there is no recourse to Namibia.
- (h) The funds may under no circumstances be utilized to fund investment/loans into the CMA, for any purpose whatsoever, via a loop structure, except if invested in approved inward listed instruments, i.e. the foreign inward listings on the NSX Limited.

## 5. Namibian institutional investors

Institutions eligible for the foreign investment allowance for Exchange Control purposes, Institutional Investors include all pension funds, medical aid funds, long-term insurers, short-term insurers, investment managers and management companies of unit trust schemes. Institutional investors are eligible for the foreign portfolio investment allowance and must comply with the reporting requirements outlined below. Institutional Investors registered with NAMFISA shall be deemed to be registered with the Exchange Control and Legal Services Department of the Bank of Namibia. NAMFISA shall provide the Bank of Namibia with quarterly



returns on the registration of Institutional Investors. Registration is required for all institutional investors wishing to invest funds offshore directly. Institutional investors must also comply with the reporting requirements as outlined in subsections (iii) and (vi) below.

Institutional Investors are required to declare their status regarding registration with NAMFISA when they invest with another domestic institution.

## 1. **Application of foreign asset limits**

The exchange control limit on foreign portfolio investment by institutional investors will be applied to an institution's total assets under management. The foreign exposure may not exceed 35 per cent of total assets or assets under management in the case of retirement funds, long-term insurers, investment managers registered as institutional investors for exchange control purposes and collective investment scheme management companies.

It should be noted that compliance with the exchange control limits on foreign portfolio investment does not preclude an institution from also having to comply with any relevant prudential regulations as administered by the Namibia Financial Institutions Supervisory Authority. Institutional investors may participate in Namibia Dollar instruments issued abroad or foreign currency denominated instruments issued by local entities on condition that the requirements of the Namibia Financial Institutions Supervisory Authority are complied with and that the particular institutional investor remains within its applicable foreign portfolio investment allowance. Institutional investors are also permitted to hedge the currency risk in terms of making portfolio investments offshore *i.e.* hedging the anticipated conversion of Namibia Dollar into foreign currency for transfer offshore.

The currency risk in respect of repatriating funds may also be hedged in terms of Section D. of the Rulings. However, investment risk may only be hedged in the foreign market. Institutional investors may not further transfer Namibia Dollar offshore. In order for an institutional investor to participate in Namibia Dollar denominated instruments issued offshore, Namibia Dollar would have to be converted to foreign currency and the resultant foreign currency be re-converted back to Namibia Dollar in the offshore market to purchase the instrument. The initial conversion of Namibia Dollar to foreign currency could be hedged, but the subsequent conversion back to Namibia Dollar constitutes investment risk and may, therefore, not be hedged in the local market. Whilst Authorised Dealers are not required to scrutinise the quarterly asset allocation reports of institutional investors wishing to obtain foreign exposure, Authorised Dealers are obliged to ensure that they are dealing with a legitimate institutional investor. Therefore, prior



to the transfer of any funds abroad, Authorised Dealers must ensure that their clients are, indeed, registered with the Namibia Financial Institutions Supervisory Authority (NAMFISA) by calling for their registration certificates. Below is the list of the institutional investors currently registered with Namfisa:

Allan Gray Namibia (Pty) Ltd  
Bank Windhoek Ltd  
Capricorn Asset Management (Pty) Ltd  
EAU Rouge Investment Managers (Pty) Ltd  
EMH Prescient Investment Management (Pty) Ltd  
FFO Securities Namibia (Pty) Ltd  
First National Bank Unit Trust  
Financial Investments Services Namibia (Pty) Ltd  
Government Institution Pension Fund  
Investec Asset Management Namibia (Pty) Ltd  
Investment Solutions (Namibia) Ltd  
J.M. Busha Securities Namibia (Pty) Ltd  
Momentum Asset Management (Namibia) (Pty) Ltd  
Namibia Asset Management Ltd  
Old Mutual Investment Group (Namibia) (Pty) Ltd  
PointBreak Equity (Pty) Ltd  
Prudential Portfolio Managers Namibia (Pty) Ltd  
Sanlam Investment Management (Namibia) (Pty) Ltd  
Rand Merchant Bank  
Sovereign Asset Management (Pty) Ltd  
Stanlib Namibia (Pty) Ltd  
Stimulus Private Equity (Pty) Ltd  
Tulive Capital (Pty) Ltd



Additionally, Authorised Dealers must view a letter of confirmation issued by NAMFISA showing the percentage of the offshore investment in relation to total assets or assets under management as the case may be, confirming that the institution's offshore investment does not exceed 35% limit, prior to effecting the desired transfer.

All requests for offshore investments in excess of the 35% threshold or those not accompanied by the said letter of confirmation issued by NAMFISA must be referred to the Exchange Control and Legal Services Department for consideration.

Foreign assets, for exchange control purposes, are defined as the sum of foreign currency denominated assets and Namibia Dollar denominated foreign assets, acquired both directly and indirectly through investment with another domestic institution and should not include any assets deemed to be held locally within Namibia in terms of the relevant regulations. To ensure the consistent classification of foreign exposure, institutions are required to report their assets on a "see through" basis, as outlined below.

Institutional investors, as defined in subsection B.5(K)(i) above, must take cognisance that any position held as a result of active currency management transactions, not resulting in the actual pay away or receipt of currency, i.e. the "in-between trades", is regarded as foreign exposure and must, accordingly, be marked off against their respective foreign portfolio investment allowances as well as being accounted for in the quarterly asset allocation reports.

The originating institution or its administrator retains the responsibility for ensuring that both its direct and indirect offshore investments are compliant with the exchange control limits on foreign portfolio investments.

(iii) Reporting requirements

Reporting involves the submission of a quarterly report from all institutional investors providing:

- (a) Information on the allocation of assets according to the asset classes as determined by NAMFISA.



(iv) Quarterly report

Institutional investors are required to submit quarterly reports of their asset holdings as at the end of each calendar quarter to NAMFISA.

The quarterly reports provide the primary mechanism for monitoring exchange control compliance and assessing applications.

(a) Reporting asset allocation

In reporting on asset allocations, a “see through” principle is applied to investments in collective investment schemes, long-term insurance policies and other investment products. This principle ensures the consistent classification of foreign asset exposure, whether acquired directly in foreign currency or indirectly through a domestic intermediary.

For instance, a retirement fund holding foreign equities through a collective investment scheme registered locally, should record such an investment as a Namibia Dollar - denominated foreign asset.

(b) Information required from institutions in excess of the foreign asset limit

Institutions that hold more than the maximum permitted exchange control limits on foreign portfolio investments should provide:

- (1) An explanation for the contravention; and
- (2) a clear indication of how and by when the institution intends to adjust its foreign asset holdings to fall within the exchange control limit on foreign portfolio investments.

Where relevant, this information must be submitted to the Exchange Control and Legal Services Department as part of the quarterly report on asset holdings.

(v) Compliance



Institutions exceeding exchange control limits are required to provide an explanation for the contravention and to propose corrective measures. This requirement is part of the quarterly report on asset holdings. The Exchange Control and Legal Services Department will consider the reasons for contravention and the proposed corrective measures. If these measures are deemed to be unacceptable, the Exchange Control and Legal

Services Department will issue further directives that may include the repatriation of income and/or capital.

Compliance with the reporting requirements as outlined in subsections (ii) and (iii) above will be enforced as outlined hereunder.

(vi) Reporting format

The respective industry quarterly prudential return, which is inclusive of the asset allocation reports, as required and submitted to NAMFISA on a quarterly basis, would be deemed to be a submission made to the Exchange Control Division, Bank of Namibia. NAMFISA will share the returns with the Bank of Namibia in order to avoid a duplicate reporting system.

## 6. Import payments

### 6.1 Payment via credit and/or debit cards

Business entities may effect payment for small transactions (e.g. imports over the Internet) by means of a credit and/or debit card within the limit of N\$50 000 per transaction. Cardholders will, however, not be absolved from ad valorem excise and custom duties or from complying with the requirements imposed by Customs. Any singular transaction exceeding N\$50 000 may not be split to circumvent the limit applicable to this dispensation.

### 6.2 Payment via an Authorised Dealer

Business entities may purchase foreign currency to pay for the actual price of imported goods, bona fide freight charges, insurance cover as well as buying commissions and retainer fees due to agents, provided that the rate of commission or fee is normal in the particular trade concerned, together with any other incidental charges incurred in the purchase and shipment of the goods.

Where an import permit is required, business entities must ensure that a covering import permit issued by Ministry of Industrialisation, SME Development and Trade is obtained.



### 6.2.1 Payments for imports must be made against the following documentation:

- (a) commercial invoices issued by the supplier;
- (b) any one of the transport documents as prescribed by the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits (UCP 600) and its supplement for electronic presentation, the eUCP, evidencing transport of the relative goods to Namibia; or
- (c) Freight Forwarders Certificate of Receipt or Freight Forwarders Certificate of Transport; or
- (d) consignee's copy of the prescribed SAD500.

In lieu of the documents referred to in (b) and (c) above, arrival notifications issued by shipping companies may be tendered.

Since Botswana is a member of the Custom Union, imports from Botswana may be paid for against the commercial invoice issued by the supplier and the consignee's copy of the prescribed SAD500.

### 6.2.2 Freight payments together with exemptions

Business entities must ensure that original, final freight invoices are presented to an Authorised Dealer for payment. Under no circumstances may quotes and/or pro-forma invoices be presented for payment.

Freight payments that are expressed in foreign currency and are directly related to a specific import or export transaction may be settled between local entities (i.e. legal persons) in foreign currency.

Importers who do not conduct a CFC account or who have no inflow of foreign currency may purchase foreign currency in the spot market to pay freight charges to another resident provided that such resident has an obligation to pay freight charges in foreign currency.

Foreign currency held by a locally recognised ships' agent (including cash to master transactions), freight forwarder, marine insurance broker or tour wholesaler or operator for the ultimate benefit or account of a non-resident entity (e.g. a ship's owner, freight forwarder, insurance broker or insurance entity abroad) need not be offered for sale to an Authorised Dealer. These funds may be retained in a CFC account until distribution on behalf of or transfer to the non-resident beneficiary abroad.

Where a business entity is required to pay any interest on an overdrawn account by converting Namibia Dollars into foreign currency, this must be done in the spot market.



### **6.3 Terms of payment for imports**

#### **(a) Advance payments**

Foreign currency in respect of advance payments to cover the cost of permissible imports, other than capital goods, against the presentation of an invoice may be provided by the entity's Authorised Dealer, provided that documentary evidence is presented to them in due course confirming that the goods have been received in Namibia.

The prescribed and duly endorsed SAD500 must be submitted to the business entity's Authorised Dealer immediately after the goods have been received in Namibia.

#### **(b) Capital goods**

Foreign currency may be provided for advance payments up to 100 per cent of the ex-factory cost of capital goods to be imported not exceeding a total value of N\$20 million. Payment for the importation of capital goods in excess of N\$ 20 million may only be provided up to 50 per cent of the ex-factory cost of the goods to be imported. Business entities must confirm to their Authorised Dealer that the order would otherwise be refused and that such payment is normal in the trade concerned.

#### **(c) Cash-on-delivery consignments**

Business entities may purchase foreign currency in respect of advance payments and/or cash-with-order requests to cover the cost of permissible imports as well as for goods consigned by air on a cash-on-delivery basis, provided that within 14 days a copy of the relative transport document dated and signed by a member of the Association of Freight Forwarders is submitted to the entity's Authorised Dealer.

#### **(d) Payments older than 12 months**

Payments in respect of imports where the required import documents are older than 12 months may be effected via an Authorised Dealer, provided that no interest has been charged by the foreign supplier.

### **6.4 Computer software**

#### **6.4.1 Importation of computer software, local reproduction of computer software packages and maintenance**

Business entities may import computer software and specific custom-made computer software products, including any licence fees which may be payable, against the production of documentary evidence confirming the purpose and amount payable. The payments must be effected via an Authorised Dealer. In



addition, payment may be made in respect of software, which is downloaded via the Internet against documentary evidence confirming the purpose and amount payable.

6.4.2 Royalty payments to non-residents, including any licence fees that are payable from the local reproduction or copying of computer software packages may be effected provided that:

- (a) the licensor is an unrelated party (i.e. none of the parties have any direct and/or indirect interest or shareholding in each other); and
- (b) the application is accompanied by documentary evidence confirming the purpose and amount payable.

Where applicable minimum payments, advance payments and down payments are permissible, provided that the advance payments and down payments are recoupable from future royalties or fees payable.

Payment of percentage based fees are permissible provided that the client confirms it is normal in the trade concerned.

6.4.3 Maintenance payments applicable to computer software packages, in advance and/or retrospectively, against documentary evidence confirming the purpose and amount payable may be effected.

6.4.4 Extension of agreements previously authorised must be referred to an Authorised Dealer for approval.

## 6.5 Evidence of importation

Importers must produce the documentation listed under section 6.2.1 above to the Authorised Dealers at the time of making payment.

Where goods for which payment has been made from Namibia have not been or will not be consigned to Namibia within four months of the date of payment, the importer must within 14 days of the expiry of such period, advise the Authorised Dealer concerned in writing.

In cases where an importer fails to provide import documentation or to report the non-receipt of goods within the above-mentioned four-month period to the Authorised Dealer, foreign currency may cease to be provided to the importer until the matter has been satisfactorily resolved.

Any non-compliance will be reported to the Exchange Control and Legal Services Department who may issue an instruction to all Authorised Dealers that no foreign currency may be provided to such importer until the matter has been satisfactorily resolved.



## **6.6 Philatelic and numismatic imports**

Business entities must approach their Authorised Dealers who may grant applicants foreign currency in payment of philatelic imports and other numismatic imports, excluding Namibian gold coins minted in 1962 and thereafter) imported from abroad.

The Authorised Dealer will furnish applicants with a letter of authority for submission to the appropriate government department. The government department concerned will endorse, on the face of the letter, the value of each parcel received in Namibia during the relative period.

When this authority has been fully used or on the date of its expiry, the relative letter of authority must be returned to the Authorised Dealer concerned before a new letter in respect of any subsequent period is issued.

Matters relating to the importation of medals, medallions, pendants and other similar non currency articles must be referred to the Ministry of Industrialisation, SME Development and Trade.

## **6.7 Charges incidental to cancellation of orders, retention and/or resale of goods awaiting consignment in country of supply**

Business entities must provide documentary evidence to an Authorised Dealer to effect payment for the expenses incurred.

## **6.8 Imports undertaking dispensation**

The requirement for certain business entities to submit supporting documentation to their Authorised Dealers for every import payment may be dispensed with by applying for the imports undertaking dispensation. Requests to avail of this dispensation must be referred to the Exchange Control and Legal Services Department via an Authorised Dealer.

## **6.9 Buying commissions**

Buying commissions may be effected to independent agents outside Namibia in foreign currency or in Namibia Dollar to the credit of a Non-resident Namibia Dollar account, provided that the entity confirms to the Authorised Dealer in writing that the rate of the commission or fee is normal in the particular trade concerned.

## **6.10 Documentation**

All documentation required under subsection 6.2.1 must be retained by the business entity for a period of five years.



## 7. Exports

All exports to countries outside Namibia must be supported by the prescribed Customs Declaration.

- 7.1 Business entities exporting goods to countries outside Namibia must comply with the following conditions:
- (a) sell goods exported within a reasonable time, but no later than six months from the date of shipment;
  - (b) receive the full foreign currency proceeds not later than six months from the date of shipment;
  - (c) receive payment in foreign currency or Namibia Dollar from a Non-resident Namibia Dollar account;
  - (d) offer to sell the full foreign currency proceeds to an Authorised Dealer within 30 days after becoming entitled thereto or retain the export proceeds indefinitely in a CFC account at an Authorised Dealer. Alternatively, the exporter must; and
  - (e) report in writing to an Authorised Dealer the non-receipt of the full foreign currency proceeds, within the prescribed period, as well as the failure to sell the goods exported within six months from the date of shipment.
- 7.2 Business entities may approach their Authorised Dealers to grant credit up to a total of 12 months. Confirmation must be provided to an Authorised Dealer that the credit is necessary in the particular trade, that it is needed to protect an existing export market or to capture a new export market.
- 7.3 Exports against payment in Namibia Dollar may be accepted for all exports up to N\$25 000 per transaction. Where payment is tendered in Namibia Dollar notes with a value in excess of N\$25 000 per transaction, business entities must obtain approval to accept such Namibia Dollar notes from the Exchange Control and Legal Services Department via an Authorised Dealer.
- 7.4 Exporters must accurately complete the prescribed Form F.178 for the monitoring of the receipt of export proceeds by the Exchange Control and Legal Services Department.
- 7.5 Where goods are exported by rail, the prescribed SAD 500 Customs Declaration must be completed.
- 7.6 Passenger and goods transport vehicles may not be exported for sale outside the Southern African Customs Union (i.e. Botswana, Lesotho, Namibia and Eswatini). This excludes new vehicles exported by local manufacturers or their appointed agents.



- 7.7 Exporters must ensure that goods exported on a temporary basis are returned to Namibia within six months from date of shipment. Business entities must, if requested by the Exchange Control and Legal Services Department or Customs be able to present original transport documents and Bills of Entry (Import) or tax clearance vouchers issued by the Nampost Limited, as evidence that the relevant goods or replacements have been returned or imported into Namibia.
- 7.8 Replacement goods, short shipments and goods under guarantee may be sent abroad provided that:
- (a) the full invoice value of the original shipment has been or will be received from the consignee;
  - (b) the exporter is bound by guarantee or trade practice to make good the deficiency without charge; and
  - (c) where applicable, the replaced goods are being destroyed, reimported or sold abroad for payment in foreign currency or Namibia Dollar from a Non-resident Namibia Dollar account.
- 7.9 Refunds may be effected to purchasers in countries outside Namibia representing final adjustments in respect of exports from Namibia (e.g. produce under-yields and weight adjustments), provided that evidence is produced showing that the full invoice price for the consignment has been received in foreign currency or in Namibia Dollar from a Non-resident Namibia Dollar account.
- 7.10 Selling commissions may be effected to independent agents outside Namibia in foreign exchange or in Namibia Dollar to the credit of a Non-resident Namibia Dollar account. This authority is subject to the condition that the Authorised Dealer is satisfied that the export proceeds have or will be received in South Africa and the local business entity confirms to the Authorised Dealer in writing that the rate of the commission or fee is normal in the particular trade concerned.
- 7.11 Commissions or any other related expenses may not be set off against export proceeds unless specifically authorised by the Exchange Control and Legal Services Department.
- 7.12 The export of advertising matter and trade samples on a no-charge basis can be undertaken provided the goods are being shipped purely for advertising or promotional purposes.
- 7.13 In the case of manufactured goods registered with Customs for re-export to their country of origin for repairs or adjustments free of payment, same may be exported.



- 7.14 Goods for which no payment has been made may be transferred abroad to the original supplier, free of counter-value or re-exports for the supplier's account.
- 7.15 Temporary export to African countries of used equipment is allowed. This must however, be to fulfil any contractual obligations and the equipment must be the contractor's own property. The equipment must be returned on completion of the contract.
- 7.16 Business entities are permitted to re-export to the original supplier, defective goods that have been paid for provided that it can be shown from the production of documentary evidence that the foreign supplier has agreed to:
- (a) replace the consignment on a no-charge basis with goods of an equivalent value (in such cases the applicant must, if necessary, be in possession of a permit to cover the importation of the replacement goods); or
  - (b) refund the cost of the defective goods or to provide a credit note for the full value of the defective goods.
- 7.17 Temporary exports to countries outside the CMA for which no payment is to be received in Namibia must, where required, be supported by the prescribed Form N.E.P. These goods or replacement items must be returned to Namibia within a period of six months.
- 7.18 Requests to export any items or goods, with an insurance value in excess of N\$50 000, for which no payment will be received and where the item Exchange Control and Legal Services Department exported will not be returned to Namibia must be referred to the Exchange Control and Legal Services Department.
- 7.19 The export of postage stamps and philatelic items must be regarded as a normal export transaction. The temporary export of such items for exhibition purposes may be effected provided that these items are returned to Namibia within a period of six months.
- 7.20 All matters relating to the export of gold coins, currency coins and numismatic items must be referred to the Exchange Control and Legal Services Department. As an exception, gold coins (excluding Krugerrand coins), currency coins and numismatic items may be exported within an overall limit of N\$ 30 000 per applicant, per calendar year.
- 7.21 The temporary export of gold coins, currency coins and numismatic items for exhibition purposes may be effected provided that these items are returned to Namibia within a period of six months.
- 7.22 Goods imported into Namibia and paid for may be exported subject to the completion of the prescribed Form F.178.



- 7.23 Outward freight payment may be effected to non-resident owners or charterers of carrying vessels, aircraft or vehicles, provided that it can be satisfactorily established that the relative goods have either been sold on a Cost and Freight (CFR) or Cost, Insurance and Freight (CIF) basis against payment in foreign exchange or in Namibia Dollars from a Non-resident Namibia Dollars account, or are being exported on consignment or exported under cover of the prescribed Form F.178.
- 7.24 The export of diamonds for further processing abroad (e.g. cutting and grading) must be made under cover of the prescribed Form N.E.P. The onus is on the exporter to produce documentary evidence, when requested to do so, confirming receipt of the diamonds returned to Namibia.

## **8. Foreign currency holdings**

### **8.1 Foreign assets and the retention of foreign currency balances abroad**

Business entities are not permitted to place their foreign assets at the disposal of third parties normally resident in Namibia, without the specific prior approval of the Exchange Control and Legal Services Department (i.e. the sale in Namibia Dollars or foreign currency of legally held foreign assets, gifts, donations and loans to other Namibian residents or the creation of 'loop structures').

Foreign currency may not be retained abroad unless specific approval is obtained from the Exchange Control and Legal Services Department or as

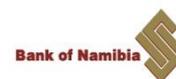
provided for in the Authorised Dealers Manual. A serious view will be taken by the Exchange Control and Legal Services Department of any unauthorised retention of foreign currency balances, whether with foreign banks, overseas principals, agents or shippers.

## **9. Merchanting, barter and counter trade**

### **9.1 Merchanting trade**

Business entities wishing to engage in merchanting trade transactions must apply to an Authorised Dealer. If approved, a condition would be that the time-lag between paying funds to the foreign supplier (seller) and receiving funds from the foreign importer (buyer) must not exceed 60 days for trade with countries on the African continent and 30 days for trade with any other country.

Authorised Dealers must ensure that payment is received from the foreign importer (buyer), which must include the Namibian merchant's profit and must be received in foreign currency or Namibian from a Non-resident Rand account.



A copy of the relative agreement entered into between the parties concerned or a commercial invoice from the seller together with a commercial invoice from the Namibian merchant must be produced to confirm the arrangements.

In instances where the above-mentioned requirements cannot be complied with, a written application must be submitted via an Authorised Dealer to the Exchange Control and Legal Services Department for consideration.

## **9.2 Barter and counter trade**

Transactions of this nature must be referred via an Authorised Dealer to the Exchange Control and Legal Services Department for prior approval. Such requests must be supported by copies of the contracts entered into between the relative parties with a full explanation of the manner in which the values of the goods have been arrived at. Where an open market or world price exists, any deviation therefrom must be fully substantiated and motivated.

## **10. Income transfers to non-residents**

### **10.1 Dividends, profits and current income due to non-residents**

Income due to non-residents of the CMA may be transferred offshore provided that:

- (a) the transfer of dividends, profit and/or income distributions from quoted, non-quoted companies and other entities to non-residents is in proportion to the non-resident's percentage shareholding and/or ownership; and
- (b) the transfer from Namibian of any income earned outside Namibian represents the profits of wholly-owned subsidiaries or of branches of Namibian registered companies, previously transferred to Namibian.

### **2. 10.2 Interest**

- (a) The transfer to non-residents of market related interest income on local debt securities owned, including interest bearing deposits held, with local financial institutions, may in terms of the provisions of the Authorised Dealer Manual, or in terms of a specific authority granted by the Exchange Control and Legal Services Department, be permitted, provided that documentary evidence of such indebtedness by a resident debtor is produced.
- (b) Interest income on loans granted to residents is transferable provided that the Authorised Dealer is satisfied that both the acceptance of the loan and the interest rate payable were approved by an Authorised Dealer or the Exchange Control and Legal Services Department.



- (c) Interest income in respect of funds held in trust accounts may be transferred via an Authorised Dealer against the production of documentary evidence confirming the amount involved.

## **10.2 Directors' fees**

The transfer of directors' fees to non-residents is permissible provided that:

- (a) the application to the Authorised Dealer is accompanied by a copy of the resolution of the board of directors of the remitting company confirming the amount to be paid to the beneficiary; and
- (b) it can be shown that the beneficiary is a non-resident.

## **10.3 Income from trusts**

The transfer of income from trusts created in terms of a Last Will and Testament and inter vivos trusts to non-residents is permitted via an Authorised Dealer.

## **10.4 Rentals**

Income accruing to non-residents in the form of rental on their local fixed property and income from rental pool agreements in which they have an interest may be transferred abroad against the production of a copy of the rental or rental pool agreement, provided that the client confirms to the Authorised Dealer that the amount is reasonable in relation to the property in question.

## **10.5 Members' fees**

The transfer of members' fees to non-resident members of close corporations is permitted, provided that:

- (a) the application to the Authorised Dealer is accompanied by a copy of the resolution of members of the remitting close corporation confirming the amount to be paid to the beneficiary; and
- (b) it can be shown that the beneficiary is a non-resident.

## **10.6 Royalties and fees payable by Namibian business entities**

All royalties and fees payable to unrelated non-resident parties are freely transferable abroad as outlined below:



- (a) payment for services rendered by non-residents, including the reimbursement of airfares, accommodation and other costs directly associated with the rendering of the services in question are transferable;
- (b) prior to effecting payment, business entities must furnish an Authorised Dealer with a copy of the agreement entered into where available, but in all instances an invoice verifying the purpose and the amount involved from the relevant non-resident party must be presented;
- (c) where applicable, minimum payments, advance payments and down payments are permissible provided that the advance payments and down payments are recoupable from future royalties or fees payable;
- (d) payment of percentage based fees are permissible provided that the client confirms it is normal in the trade concerned;
- (e) the applicant entity must present a letter in respect of royalty payments, on an annual basis, from an independent auditor, confirming the amount or percentage transferred over a 12-month period to the Authorised Dealer. This arrangement only applies where the applicant entity has made recurring payments in terms of a royalty agreement; and
- (f) business entities wishing to make royalty and fee payments to related parties abroad should submit a suitable application to the Exchange Control and Legal Services Department via an Authorised Dealer. A related party is defined as a party to a transaction that has a direct or indirect interest in the other party and has the ability to control the other party or exercise significant influence over the other party in making financial and operating decisions.

### **10.7 License agreements involving the local manufacture of goods**

Royalties and fees payable to non-residents (related and unrelated parties) in respect of licence agreements involving the local manufacture of goods are must be referred to the Ministry of Industrialization, SME Development and Trade for their consideration and approval.

When remitting payments Authorised Dealers must adhere to the following set criteria:

- (a) the payments to be made must fall within the terms of the relative agreement and, where applicable, comply with any conditions laid down in the authority granted by the Ministry;
- (b) where applicable, minimum payments, advance payments and down payments are permissible provided that the client confirms that such payments are normal in the trade concerned and the advance payments



- (c) and down payments are recoupable from future royalties or fees payable;
- (d) prior to any payments being effected, the licensee must present to an Authorised Dealer a copy of the approval letter granted by the Ministry together with an invoice from the licensor, verifying the purpose and the amount involved from the relevant non-resident party; and
- (e) for recurring payments, a letter from the independent auditors of the local applicant entity, confirming the amount or percentage transferred or to be transferred has been correctly calculated and is reasonable in the trade concerned, must be submitted to the Authorised Dealer effecting the transfer at least once per calendar year.

## **11. Omnibus travel facility**

Business entities may make an application to Authorised Dealers and ADLAs to avail of an omnibus travel facility up to N\$20 million per calendar year for allocation to the entities' representatives for business travel purposes only, at the discretion of the relevant firm or company. At the beginning of each calendar year, the business entity should apply in writing, on the business entity's letterhead, to the Authorised Dealer or ADLA for permission to avail of an omnibus travel facility.

On each occasion during the calendar year that the representatives of the business entity will travel, an official letter from the business entity concerned authorising the proposed business visits to be undertaken and explaining the purpose of the proposed business trips must be presented to the Authorised Dealer or ADLA. The person travelling on behalf of the business entity and availing of this facility must present a valid Namibian identity document or Passport together with the passenger ticket in their name to an Authorised Dealer or ADLA.

Funds availed of in terms of the omnibus facility may not be used for any other purpose than business travel. This allowance may not be deposited into a foreign bank account under any circumstances.

Any unused foreign currency must be resold within 30 days to an Authorised Dealer or ADLA on the traveller's return to Namibia. Where a traveller, however, has to go on recurring business trips within 90 days of the previous trip, any unutilised foreign currency notes may be retained for use during the next business trip.

Applications for facilities in excess of N\$20 million must be submitted to the Exchange Control and Legal Services Department via an Authorised Dealer or ADLA for consideration.



Representatives of entities availing of an omnibus travel facility also qualify in their personal capacity for a travel allowance within the single discretionary allowance limit of N\$1 million per calendar year.

## **12. Transfers to charitable, religious or educational bodies and to missionaries**

Religious bodies are permitted to transfer up to N\$50 000 per calendar year per beneficiary to missionaries, provided that a letter from a local registered religious body is presented to an Authorised Dealer confirming that the person is a missionary abroad.

## **13. Travel agents, tour operators, shipping and airline company transfers**

### **13.1 General**

Travel agents, tour operators and shipping and airline companies may not, without the permission of the Exchange Control and Legal Services Department, engage in any foreign exchange transactions. However, Travel agents and tour operators may effect transfers abroad on the basis indicated in 13.2 and 13.3 below. Shipping and airline companies may only effect bulk transfers abroad on the basis outlined in 13.4 below.

### **13.2 Sale of passenger tickets by travel agents and tour operators in Namibia**

Travel agents and tour operators may not, except as provided for in (b) below, issue passenger tickets locally against payment in Namibia Dollars for utilisation by a traveller whose journey does not commence from the CMA.

#### **(a) Journeys by non-residents**

(aa) Travel agents and tour operators may accept payment in foreign currency (either by foreign credit card or foreign currency payments

(bb) to their bank account) by visitors to Namibia Dollars for passenger tickets for journeys from Namibia Dollars. Where payment is to be effected in Rand Namibia Dollars by such visitors, travel agents and tour operators must view documentary evidence to ensure that the relative funds represent the proceeds of foreign currency introduced into and exchanged in Namibian.

(cc) No payment may be accepted to cover the cost of the fare of a non-resident for travel between destinations outside Namibian without the specific approval of the Exchange Control and Legal Services Department, unless payment is made in foreign currency or Namibia Dollars from a Non-resident Rand account.



- (dd) Travel agents and tour operators may alternatively arrange that passenger tickets be purchased via the Internet.
- (b) Sale of passenger tickets for journeys between destinations outside Namibia.
  - (aa) Where a business entity wishes to pay for the cost of a passenger ticket for a single or return journey commencing outside the CMA to the CMA, payment for such ticket may either be transferred directly to a foreign travel agent or to an overseas airline company. Alternatively, the ticket may be issued and paid for in Namibia Dollars in Namibia or the ticket may be issued abroad against a prepaid ticket advice paid for in Namibia Dollars.
  - (bb) Travel agents and tour operators may accept payment in Namibia Dollars to cover the cost of passenger tickets for travel between destinations outside of Namibia in order to accommodate the following:
    - (i) corporate clients and/or contractors who may need to second foreign based personnel or outsourced persons to fulfil contractual obligations;
    - (ii) local clients with a global presence who wish to attend conferences and/or training;
    - (iii) travel arranged by non-governmental organisations; and
    - (iv) leisure bookings by travel agents via the Internet.
  - (cc) The passenger ticket may be issued and paid for in Namibia Dollars in Namibia or the passenger ticket may be issued abroad against a prepaid ticket advice paid for in Namibia Dollars.
  - (dd) Travel agents and tour operators may, alternatively, arrange that passenger tickets be purchased via the Internet.

### **13.3 Foreign exchange disbursements by travel agents and tour operators on behalf of travelers**

- (a) Advance payments and/or payments in full

Travel agents and tour operators who wish to effect advance payments or payments in full in respect of independent or package tours offered to the public must produce documentary evidence to an Authorised Dealer



in the form of an invoice or pro forma invoice from the foreign payee confirming the amount payable.

For the purposes of this subsection, as well as (b) below, a copy of an overseas invoice plus a covering invoice issued by a local travel agents and tour operators may be accepted by an Authorised Dealer when remitting funds abroad. The invoice issued by the local travel agents and tour operators must contain the name and residential address of the traveller, as well as the foreign currency and/or Namibia Dollars amount.

(b) Subsequent payments

Subsequent payments by travel agents and tour operators to cover any portion or the balance of a tour not transferred in (a) above may be permitted, provided that documentary evidence in the form of an invoice or pro forma invoice from the foreign payee confirming the amount payable is produced.

Travel agents and tour operators must, at the time of selling a tour to an individual, in respect of advance payments, and/or payments in full and subsequent payments obtain a written declaration from the party concerned to the effect that such party is fully conversant with the conditions pertaining to the issue of a travel allowance and is aware that the cost of any land arrangements paid for locally and/or abroad is deductible from the travel allowance which forms part of the single discretionary allowance limit of N\$1 million.

(c) Cancellation fees

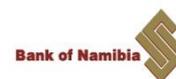
In respect of cancellation fees due to foreign payees, travel agents and tour operators must produce documentary evidence to an Authorised Dealer to effect such payments.

(d) Refunds in respect of unutilised bookings

Where payments for bookings abroad have been effected on behalf of a traveller who does not travel or does not utilise the bookings made and a refund is obtained, such reimbursement received by the travel agents and tour operators from abroad must be retransferred to Namibia within 30 days.

(e) Incentive tours

Travel agents and tour operators may effect payments, including advance payments, in respect of package tours offered by business entities to employees as part of an incentive scheme against the production of documentary evidence, as well as an official letter from the business entity concerned.



### **13.4 Bulk transfers by shipping and airline companies**

The local offices of foreign shipping and airline companies may be allowed to transfer surplus funds abroad periodically against submission to Authorised Dealers of supporting statements giving details of freight and passenger fare collections, less local disbursements in respect of their vessels or aircraft and administrative expenditure. Shipping and airline companies must submit auditors' certificates confirming the items enumerated on the statements to their Authorised Dealers on an annual basis.

## **14. Insurance and pensions**

As a general approach, business entities are not allowed to enter into any insurance contracts with foreign insurance companies. However, in view of the limited scope and extent of cover that is available in the Namibian South African insurance market, local insurance companies, intermediaries or brokers and Lloyd's correspondents are in certain instances allowed to place the risks with foreign insurance companies and with Lloyd's of London.

Registered Namibian insurance companies, intermediaries or brokers and Lloyd's correspondents approved by Lloyd's of London are reminded that the Authorised Dealer Manual does not absolve them from complying with all the relevant sections of the Long-term Insurance Act and the Short-term Insurance Act.

### **14.1 Reinsurance**

Business entities may, via an Authorised Dealer, make payments in the prescribed manner to non-resident parties in respect of insurance premiums as stated below:

- (a) Local registered insurance companies may transfer abroad reinsurance premiums, excluding reinsurance premiums in respect of currency risk
- (b) provided that the request is accompanied by a letter signed by two senior officials of the company concerned, incorporating a declaration that the applicant is registered in terms of section 9 of the Short-term Insurance Act and has been issued with a registration certificate by the Registrar of Insurance as well as a declaration that the underlying transaction was entered into under an 'approved reinsurance policy' as defined in section 1(1) of the Short-term Insurance Act.
- (c) Local insurance intermediaries, including Lloyd's correspondents approved by Lloyd's of London, may transfer reinsurance premiums, excluding reinsurance premiums in respect of currency risk, provided that the request is accompanied by a letter signed by two senior officials of the intermediary firm and/or Lloyd's correspondent incorporating the names of the registered insurance and reinsurance companies on whose



- (d) behalf the reinsurance is transacted, as well as a declaration by the registered insurer(s) concerned that the underlying transaction was entered into under an 'approved reinsurance policy' as defined in section 1(1) of the Short-term Insurance Act.
- (e) Lloyd's correspondents approved by Lloyd's of London may transfer insurance premiums, excluding insurance premiums in respect of currency risk, in respect of cover placed in its entirety with Lloyd's underwriters through a broker at Lloyd's, provided that the request is accompanied by a letter signed by two senior officials of the Lloyd's correspondent incorporating a declaration that the Lloyd's correspondent is authorised to conduct such insurance business as stipulated in the Short-term Insurance Act as well as a declaration that the underlying transaction was entered into with an underwriter at Lloyd's through a broker at Lloyd's.
- (f) Lloyd's correspondents approved by Lloyd's of London may transfer insurance premiums, excluding insurance premiums pertaining to currency risk, in respect of cover placed through a broker at Lloyd's that is not in its entirety underwritten by an underwriter at Lloyd's, provided that the request is accompanied by a letter signed by two senior officials of the Lloyd's correspondent declaring that the Lloyd's correspondent is authorised to conduct such insurance business as stipulated in the Short-term Insurance Act and a copy of a letter issued by the Registrar of Short-term Insurance, granting approval in terms of section 8(2)(d) of the Short-term Insurance Act to the intermediary and/or Lloyds correspondent to render services in relation to that short-term policy.

All requests for the remittance of insurance premiums referred to (a) to (d) above must be supported by documentary evidence (e.g. a statement of account, bordereau, slip or debit note) reflecting details of the insurance transacted and premiums payable.

All applications to remit reinsurance and/or insurance premiums abroad in respect of currency risk must be submitted to the Exchange Control and Legal Services Department via an Authorised Dealer for consideration.

## 14.2 Captive insurance companies

The establishment of captive insurance companies abroad requires the prior approval of the Exchange Control and Legal Services Department. Permission is also required to remit insurance and reinsurance premiums to such captives. Any such request must contain full particulars of the insurance and reinsurance to be transacted and be accompanied by a duly completed Form MPI. and documentary evidence (e.g. invoice, a statement of account). Such requests must be submitted to the Exchange Control and Legal Services Department via an Authorised Dealer.



Applications by onshore captive insurance companies to remit premiums in respect of the placement of reinsurance abroad must be submitted to the Exchange Control and Legal Services Department via an Authorised Dealer. Such applications must contain full particulars of the reinsurance to be transacted and documentary evidence (e.g. statement of account, bordereau, slip or debit note).

### **14.3 Insurance branches outside the Common Monetary Area**

The registration of insurance branches outside the CMA requires the prior approval of the Exchange Control and Legal Services Department and notification to NAMFISA. Requests by registered local insurance companies to settle claims in Namibia under policies written by their authorised branches or agents outside Namibia and vice versa may be approved by Authorised Dealers. It is a condition that any foreign currency surplus to a branch's requirements must be repatriated periodically (but at least on an annual basis).

All Namibian insurance companies with branches or intermediaries outside the CMA must submit a statement to the Exchange Control and Legal Services Department by 31 March each year, giving particulars of their foreign currency assets and liabilities as at 31 December of the previous year.

### **14.4 Foreign currency working balances**

Applications by Namibia insurance companies registered in terms of section 9 of the Short-term Insurance Act who wish to retain foreign currency premiums and any other foreign currency which accrues to them for settlement of claims under policies issued in foreign currency must be submitted to the Exchange Control and Legal Services Department via an Authorised Dealer. Such applications must, inter alia, also incorporate the following information:

### **14.5 Short-term insurance in foreign currency to business entities**

Policies may be issued to residents by registered Namibian companies in foreign currency to cover risks incidental to:

- (a) aviation (hull only);
- (b) assets held outside the CMA with approval;
- (c) foreign travel;
- (d) marine and war, general average, salvage or other third-party liability under marine insurance and reinsurance (hull and cargo); and



- (e) imports and exports of physical goods (provided that the contract of sale is denominated in foreign currency and the resident party carries the risk).

Premiums may, however, only be paid in Namibia Dollars and the insurance company concerned may apply to the Exchange Control and Legal Services Department for permission to convert such premiums into foreign currency.

Short-term insurance policies issued by tribunalised agents on behalf of Lloyd's of London may be issued in Namibia Dollars or in any foreign currency.

In paying or arranging the payment of foreign currency claims to residents, insurance companies and intermediaries referred to above must ensure that the funds are converted to Namibia Dollars within 30 days.

Where insurance policies have been issued to exporters of goods sold on Cost Insurance and Freight (CIF) terms, funds due by registered Namibian insurance companies in settlement of claims lodged by the buyers may be transferred abroad or, if authorised, released by the Authorised Dealer concerned from a CFC account.

#### **14.6 Short-term insurance policies to non-residents**

Policies may be issued to non-residents by registered Namibian insurance companies and intermediaries in Namibia Dollars or in any foreign currency. Any funds due by registered Namibian insurance companies in settlement of claims lodged by non-residents may be transferred abroad or, if authorised, released by the Authorised Dealer concerned from a CFC account.

Losses payable and account balances due by registered Namibian insurance companies on facultative and treaty reinsurance may also be transferred abroad or, if authorised, released by the Authorised Dealer concerned from a CFC account, provided that the request is supported by a statement of account reflecting details of the losses or account balances to be settled.

#### **14.7 Long-term reinsurance to business entities**

Registered long-term insurance companies may apply to an Authorised Dealer to remit long-term reinsurance premiums in respect of mortality and morbidity risks only, provided that the request is accompanied by a declaration signed by two senior officials of the company concerned confirming:

- (a) that the contract of reinsurance was entered into under an 'approved reinsurance policy' as defined in Schedule 3 to the Long-term Insurance Act and that the approval of the Registrar of Long-term Insurance has been obtained;



- (b) the name of the reinsurer with whom the reinsurance contract has been entered into; and
- (c) that the applicant is registered in terms of section 9 of the Long-term Insurance Act and has been issued with a registration certificate by the Registrar of Long-term Insurance.

#### **14.8 Long-term insurance to business entities**

Policies may be issued to residents by registered Namibian insurance companies or through local intermediaries in Namibia Dollars only.

Foreign currency policies entered into in Sterling prior to 1958-05-08 may be continued and foreign currency may be made available against documentary evidence (e.g. premium renewal notice) for the payment of premiums. The proceeds of claims on existing foreign currency policies received abroad by residents from non-Namibian insurers must be converted to Rand within 30 days.

In paying or arranging the payment of foreign currency claims in respect of policies issued in Sterling prior to 1958-05-08 to residents of Namibia, registered Namibian insurance companies must ensure that the funds are converted to Namibia Dollars within 30 days.

#### **14.9 Long-term insurance to non-residents**

Policies may be issued to non-residents by registered Namibian insurance companies or through local intermediaries either in Namibia Dollar or in any foreign currency. This arrangement also applies to emigrants in respect of new policies issued after the date of emigration. Funds due to non-residents by registered Namibian insurance companies in settlement of claims and in respect of surrenders and loans granted may be transferred abroad. Foreign currency premiums received in this regard must be converted to Namibia Dollar.

#### **14.10 General**

Registered Namibian insurance companies and intermediaries may remit funds for medical examination expenses, provided that the request is supported by the account from the non-resident medical practitioner and is addressed to the business entity. These transfers must be effected via an Authorised Dealer.

### **15. Guarantees**

Business entities must approach an Authorised Dealer in respect of guarantees to be issued in favour of non-residents with the exception of capital



guarantees (i.e. guarantees for outward foreign direct investment) and currency transfers guarantees. Requests for capital and currency transfer

guarantees must be submitted to the Exchange Control and Legal Services Department via an Authorised Dealer.

Requests for extension of guarantees by business entities must be referred to an Authorised Dealer.

## **16. Acceptance of foreign banknotes and foreign currency travellers cheques**

Travel agents, hotels, restaurants, shops and other persons whose business is directly related to the tourist industry may apply to an Authorised Dealer for permission to accept foreign banknotes and foreign currency travellers cheques from visitors to Namibia in payment of goods supplied and services rendered. A written undertaking that such foreign currency will be sold to an Authorised Dealer and/or an ADLA not later than the following business day after acquisition thereof must be presented to the Authorised Dealer. A record of all transactions must be kept and be available for inspection by the Exchange Control and Legal Services Department.

The authorised parties may not exchange currency offered by foreign tourists or any other party for Namibia Dollars or any other currency without an underlying sale of goods and/or services rendered.

## **Gold**

### **17.1 Export of gold Jewelry by manufacturing jewellers**

All applications for permission to export gold jewellery by manufacturing jewellers should be referred to the Namibian Diamond and Precious Metals Regulator in terms of the Precious Metals Act, 2005 (Act No. 37 of 2005).

Exporters should be aware that:

- (a) the full sale proceeds of all exports must be received in Namibia in foreign currency or Namibia Dollar from a Non-resident Namibia Dollars account; and
- (b) each shipment for export must be supported by the prescribed Form F.178.

### **17.2 Other exports of gold**



All applications for permission to export gold in any form should be referred to the Namibian Diamond and Precious Metals Regulator in terms of the Precious Metals Act, 2005 (Act No. 37 of 2005).

### **17.3 Acquisition of gold for legitimate trade purposes**

The acquisition of gold for legitimate trade purposes by e.g. manufacturing jewellers, dentists, is subject to the approval of the Namibian Diamond and Precious Metals Regulator. After receiving such approval, a permit must be obtained from Directorate of Inland Revenue which will entitle the permit holder to approach Rand Refinery Limited for an allocation of gold.

The holders of gold, having received the approvals outlined above, are exempt from the provisions of Regulation 5(1).

### **17.4 Advances against gold**

Payment of an instalment of the purchase price of gold sold to an Authorised Dealer is not regarded as an advance against gold and is permissible.

### **17.5 Krugerrand coins**

All applications from overseas banks and other relevant entities for large quantities of Krugerrand coins should be referred to Rand Refinery Limited.

### **17.6 Marketing of Namibian gold**

Namibian gold producers may elect to sell their total gold output to approved counterparties, once exempted by the Exchange Control and Legal Services Department from the provisions of Regulation 5.

The full export proceeds must be received in Namibia in foreign currency or Namibia Dollars from a Non-resident Namibia Dollars account.

### **17.7 Importation of gold**

All applications for the importation of gold must be referred to the Namibian Diamond and Precious Metals Regulator in terms of the Precious Metals Act, 2005 (Act No. 37 of 2005).

## **17. Hedging**

Business entities who wish to hedge their import commitments must approach their Authorised Dealer in this regard.

Business entities may hedge their foreign exchange risk through an Authorised Dealer in a controlled manner through the active management of their currency exposures in the over the counter foreign exchange market.



Dealings in hedging instruments should not be undertaken for speculative purposes or as a means to circumvent the Regulations.

Business entities may not purchase spot foreign exchange to cover future commitments or accruals. As an exception, foreign currency may be purchased in the spot market for permissible transactions in respect of a firm and ascertainable underlying commitment, and may be credited to a CFC account if the funds are to be transferred abroad within a period of 30 days.

### **18.1 Active currency management for hedging contracts not exceeding six months**

- (a) Foreign currency may be sold to or bought from an Authorised Dealer by entering into either a forward contract or a foreign exchange option contract subject to the following conditions:
  - (aa) the instruments are required to cover a direct underlying foreign exchange exposure and to manage possible losses arising from adverse movements in foreign exchange rates from a transaction that is:
    - (i) permissible in terms of the Authorised Dealer Manual;
    - (ii) in respect of which a specific authority has been granted by the Exchange Control and Legal Services Department; or
    - (iii) in respect of a business entity actively managing foreign exchange risk exposure, inter alia, in respect of import payments, export proceeds, service type payments or receipts, tenders, acquisitions, balance-sheet risk and loans.
  - (bb) cover may not be granted for a period extending beyond six months, while contracts may, however, be entered into and exited at the business entities' discretion and need not run until the commitment or accrual has been met;
  - (cc) the same underlying commitment or accrual is not simultaneously covered forward;
  - (dd) in respect of all commitments or accruals, documentary evidence is provided to the Authorised Dealer at the time of 'pay away' confirming either the nature and extent of the commitment, or that foreign currency is definitely accruing and the nature and extent of such accruals; and
  - (ee) all settlements in terms of forward cover taken out which does not result in the physical conversion of currency to and from Namibia



Dollar, i.e. the so-called 'in-between trades' must take place in Namibia Dollar.

- (b) Institutional investors should note that any open hedging position held is regarded as foreign exposure and must accordingly be marked off against their respective foreign portfolio investment allowances as well as being accounted for in the quarterly asset allocation reports.
- (c) In respect of cover granted to local stockbrokers for foreign exchange transactions with non-residents on the NSE Limited, the period of such cover may not exceed 45 days from the date of the transaction as evidenced by brokers' notes.

## **18.2 Hedging contracts exceeding periods longer than six months**

Foreign currency may be sold to or bought from an Authorised Dealer by entering into either a forward contract or a foreign exchange option contract, subject to the following conditions:

- (a) the instruments are required to cover a firm and ascertained foreign exchange commitment due to a non-resident or a foreign exchange accrual due from and payable by a non-resident arising from a transaction either:
  - (aa) permissible in terms of the Authorised Dealer Manual; or
  - (bb) in respect of which a specific authority has been granted by the Exchange Control and Legal Services Department;
- (b) cover may not be granted for a period extending beyond the due date of the underlying commitment or accrual, while contracts may be entered
- (c) into at any time after the commencement of the commitment or accrual for the full amount or part thereof and need not run until the commitment or accrual has been met; the same underlying commitment or accrual is not already covered forward;
- (d) prescribed import documentation is viewed or, when import documents are not available, a letter from the business entity signed by two responsible persons whose names and titles should appear below their signatures giving full details of the underlying commitment;
- (e) in respect of the accrual of the proceeds of exports, the period of cover granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Exchange Control and Legal Services Department has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period;



- (f) where a dispensation has been granted by the Exchange Control and Legal Services Department to certain corporates to be exempted from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions;
- (g) in respect of all other commitments or accruals, documentary evidence is provided confirming either the nature and extent of that commitment, or that foreign currency is definitely accruing and the nature and extent of such accruals;
- (h) where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation must be presented within 14 days;
- (i) for all documentation submitted in evidence of the foreign exchange commitment or accrual, in respect of which cover is availed of, the contract number and the period of the contract must be indicated; and
- (j) business entities may cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year. Such requests must be referred to an Authorised Dealer who will furnish the business entity with more details regarding the terms and conditions applicable in this regard.

### **18.3 Interest rate risk and price risk**

- (k) the same underlying commitment or accrual is not already covered forward;
- (l) prescribed import documentation is viewed or, when import documents are not available, a letter from the business entity signed by two responsible persons whose names and titles should appear below their signatures giving full details of the underlying commitment;
- (m) in respect of the accrual of the proceeds of exports, the period of cover granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Exchange Control and Legal Services Department has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period;
- (n) where a dispensation has been granted by the Exchange Control and Legal Services Department to certain corporates to be exempted from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such



- (o) dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions;
- (p) in respect of all other commitments or accruals, documentary evidence is provided confirming either the nature and extent of that commitment, or that foreign currency is definitely accruing and the nature and extent of such accruals;
- (q) where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation must be presented within 14 days;
- (r) for all documentation submitted in evidence of the foreign exchange commitment or accrual, in respect of which cover is availed of, the contract number and the period of the contract must be indicated; and
- (s) business entities may cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year. Such requests must be referred to an Authorised Dealer who will furnish the business entity with more details regarding the terms and conditions applicable in this regard.

#### **18.4 Interest rate risk and price risk**

- (t) the same underlying commitment or accrual is not already covered forward;
- (u) prescribed import documentation is viewed or, when import documents are not available, a letter from the business entity signed by two
- (v) the same underlying commitment or accrual is not already covered forward;
- (w) prescribed import documentation is viewed or, when import documents are not available, a letter from the business entity signed by two responsible persons whose names and titles should appear below their signatures giving full details of the underlying commitment;
- (x) in respect of the accrual of the proceeds of exports, the period of cover granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Exchange Control and Legal Services Department has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period;
- (y) where a dispensation has been granted by the Exchange Control and Legal Services Department to certain corporates to be exempted from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such



- (z) dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions;
- (aa) in respect of all other commitments or accruals, documentary evidence is provided confirming either the nature and extent of that commitment, or that foreign currency is definitely accruing and the nature and extent of such accruals;
- (bb) where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation must be presented within 14 days;
- (cc) for all documentation submitted in evidence of the foreign exchange commitment or accrual, in respect of which cover is availed of, the contract number and the period of the contract must be indicated; and
- (dd) business entities may cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year. Such requests must be referred to an Authorised Dealer who will furnish the business entity with more details regarding the terms and conditions applicable in this regard.

### 3. **18.5 Interest rate risk and price risk**

- (ee) responsible persons whose names and titles should appear below their signatures giving full details of the underlying commitment;
- (ff) in respect of the accrual of the proceeds of exports, the period of cover granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Exchange Control and Legal Services Department has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period;
- (gg) where a dispensation has been granted by the Exchange Control and Legal Services Department to certain corporates to be exempted from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions;
- (hh) in respect of all other commitments or accruals, documentary evidence is provided confirming either the nature and extent of that commitment, or that foreign currency is definitely accruing and the nature and extent of such accruals;



- (ii) where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation must be presented within 14 days;
- (jj) for all documentation submitted in evidence of the foreign exchange commitment or accrual, in respect of which cover is availed of, the contract number and the period of the contract must be indicated; and
- (kk) business entities may cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year. Such requests must be referred to an Authorised Dealer who will furnish the business entity with more details regarding the terms and conditions applicable in this regard.

### **18.5 Interest rate risk and price risk**

- (ll) the same underlying commitment or accrual is not already covered forward;
- (mm) prescribed import documentation is viewed or, when import documents are not available, a letter from the business entity signed by two
- (nn) responsible persons whose names and titles should appear below their signatures giving full details of the underlying commitment;
- (oo) in respect of the accrual of the proceeds of exports, the period of cover granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Exchange Control and Legal Services Department has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period;
- (pp) where a dispensation has been granted by the Exchange Control and Legal Services Department to certain corporates to be exempted from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions;
- (qq) in respect of all other commitments or accruals, documentary evidence is provided confirming either the nature and extent of that commitment, or that foreign currency is definitely accruing and the nature and extent of such accruals;



- (rr) where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation must be presented within 14 days;
- (ss) for all documentation submitted in evidence of the foreign exchange commitment or accrual, in respect of which cover is availed of, the contract number and the period of the contract must be indicated; and
- (tt) business entities may cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year. Such requests must be referred to an Authorised Dealer who will furnish the business entity with more details regarding the terms and conditions applicable in this regard.

## **18.6 Interest rate risk and price risk**

- (uu) the same underlying commitment or accrual is not already covered forward;
- (vv) prescribed import documentation is viewed or, when import documents are not available, a letter from the business entity signed by two
- (ww) the same underlying commitment or accrual is not already covered forward;
- (xx) prescribed import documentation is viewed or, when import documents are not available, a letter from the business entity signed by two responsible persons whose names and titles should appear below their signatures giving full details of the underlying commitment;
- (yy) the same underlying commitment or accrual is not already covered forward;
- (zz) prescribed import documentation is viewed or, when import documents are not available, a letter from the business entity signed by two responsible persons whose names and titles should appear below their signatures giving full details of the underlying commitment;
- (aaa) in respect of the accrual of the proceeds of exports, the period of cover granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Exchange Control and Legal Services Department has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period;



- (bbb) where a dispensation has been granted by the Exchange Control and Legal Services Department to certain corporates to be exempted from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions;
- (ccc) in respect of all other commitments or accruals, documentary evidence is provided confirming either the nature and extent of that commitment, or that foreign currency is definitely accruing and the nature and extent of such accruals;
- (ddd) where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation must be presented within 14 days;
- (eee) for all documentation submitted in evidence of the foreign exchange commitment or accrual, in respect of which cover is availed of, the contract number and the period of the contract must be indicated; and
- (fff) business entities may cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year. Such requests must be referred to an Authorised Dealer who will furnish the business entity with more details regarding the terms and conditions applicable in this regard.

## **18.7 Interest rate risk and price risk**

- (ggg) in respect of the accrual of the proceeds of exports, the period of cover granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Exchange Control and Legal Services Department has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period;
- (hhh) where a dispensation has been granted by the Exchange Control and Legal Services Department to certain corporates to be exempted from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions;
- (iii) in respect of all other commitments or accruals, documentary evidence is provided confirming either the nature and extent of that commitment,



- (jjj) or that foreign currency is definitely accruing and the nature and extent of such accruals;
- (kkk) where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation must be presented within 14 days;
- (lll) for all documentation submitted in evidence of the foreign exchange commitment or accrual, in respect of which cover is availed of, the contract number and the period of the contract must be indicated; and
- (mmm) business entities may cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year. Such requests must be referred to an Authorised Dealer who will furnish the business entity with more details regarding the terms and conditions applicable in this regard.

## **18.8 Interest rate risk and price risk**

- (nnn) responsible persons whose names and titles should appear below their signatures giving full details of the underlying commitment;
- (ooo) in respect of the accrual of the proceeds of exports, the period of cover granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Exchange Control
- (ppp) and Legal Services Department has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period;
- (qqq) where a dispensation has been granted by the Exchange Control and Legal Services Department to certain corporates to be exempted from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions;
- (rrr) in respect of all other commitments or accruals, documentary evidence is provided confirming either the nature and extent of that commitment, or that foreign currency is definitely accruing and the nature and extent of such accruals;
- (sss) where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation must be presented within 14 days;



- (ttt) for all documentation submitted in evidence of the foreign exchange commitment or accrual, in respect of which cover is availed of, the contract number and the period of the contract must be indicated; and
- (uuu) business entities may cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year. Such requests must be referred to an Authorised Dealer who will furnish the business entity with more details regarding the terms and conditions applicable in this regard.

### **18.9 Interest rate risk and price risk**

- (vvv) the same underlying commitment or accrual is not already covered forward;
- (www) prescribed import documentation is viewed or, when import documents are not available, a letter from the business entity signed by two
- (xxx) the same underlying commitment or accrual is not already covered forward;
- (yyy) prescribed import documentation is viewed or, when import documents are not available, a letter from the business entity signed by two responsible persons whose names and titles should appear below their signatures giving full details of the underlying commitment;
- (zzz) in respect of the accrual of the proceeds of exports, the period of cover granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Exchange Control and Legal Services Department has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period;
- (aaaa) where a dispensation has been granted by the Exchange Control and Legal Services Department to certain corporates to be exempted from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions;
- (bbbb) in respect of all other commitments or accruals, documentary evidence is provided confirming either the nature and extent of that commitment, or that foreign currency is definitely accruing and the nature and extent of such accruals;



- (cccc) where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation must be presented within 14 days;
- (dddd) for all documentation submitted in evidence of the foreign exchange commitment or accrual, in respect of which cover is availed of, the contract number and the period of the contract must be indicated; and
- (eeee) business entities may cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year. Such requests must be referred to an Authorised Dealer who will furnish the business entity with more details regarding the terms and conditions applicable in this regard.

#### **18.10 Interest rate risk and price risk**

- (ffff) responsible persons whose names and titles should appear below their signatures giving full details of the underlying commitment;
- (gggg) in respect of the accrual of the proceeds of exports, the period of cover granted may not extend beyond six months from the date of shipment, except where the Authorised Dealer concerned or the Exchange Control and Legal Services Department has granted permission for such proceeds to be received after six months. In addition, cover may also be granted in respect of any pre-shipment period;
- (hhhh) where a dispensation has been granted by the Exchange Control and Legal Services Department to certain corporates to be exempted from the requirement to submit documentary evidence for trade related foreign exchange transactions (the imports undertaking dispensation), such dispensation also applies when concluding forward or foreign exchange option contracts in respect of those transactions;
- (iiii) in respect of all other commitments or accruals, documentary evidence is provided confirming either the nature and extent of that commitment, or that foreign currency is definitely accruing and the nature and extent of such accruals;
- (jjjj) where the required documentary evidence is not available at the time of establishment of a forward or foreign exchange option contract, such documentation must be presented within 14 days;



- (kkkk) for all documentation submitted in evidence of the foreign exchange commitment or accrual, in respect of which cover is availed of, the contract number and the period of the contract must be indicated; and
- (llll) business entities may cover forward up to 75 per cent of budgeted import commitments or export accruals in respect of the following financial year. Such requests must be referred to an Authorised Dealer who will furnish the business entity with more details regarding the terms and conditions applicable in this regard.

### **18.11 Interest rate risk and price risk**

Business entities may approach their Authorised Dealer to arrange cover in respect of interest rate risk and price risk on commodities and metals.

Business entities who wish to hedge directly with an offshore counterparty require prior written approval of the Exchange Control and Legal Services Department.

## **19.0 Customer Foreign Currency and foreign bank accounts**

### **19.1 Qualifying parties**

The following business entities (legal persons) may open CFC accounts and special CFC accounts at an Authorised Dealer:

(a) Customer Foreign Currency account holders

Any Namibian entity (including ADLAs) that deals in foreign currency with the exception of those entities authorised in terms of section 14 above.

(b) Special Customer Foreign Currency account holders

(aa) The insurance industry to cater for foreign currency working balances in terms of section 14.4 above.

(bb) Local business entities involved in the importation and exportation of rough diamonds, crude oil, wrought gold and/or steel. Separate CFC accounts, clearly designated as 'Special CFC accounts' may, on application to an Authorised Dealer, be opened for these local business entities (i.e. legal persons). This is to facilitate the local settlement in foreign currency between such account holders in

respect of transactions which will result or have resulted in the direct importation and/or exportation by one of the entities involved of rough diamonds, crude oil, wrought gold and/or steel.

The following provisions must at all times be strictly adhered to:

- (i) no more than two local business entities (i.e. one buyer and one seller) may be party to any transaction to be so settled and both parties must obtain permission from their respective Authorised Dealers to conduct Special CFC accounts for such transactions;
- (ii) one of the parties to transactions to be so settled must be a registered importer and/or exporter of the commodity in question. The Authorised Dealer of the importer and/or exporter should be presented with suitable documentary evidence to this effect;
- (iii) the commodities to be so acquired must be destined for exportation or importation by one of the parties concerned and documentary evidence to this effect should be presented to the Authorised Dealer in whose books such a party conducts or wishes to conduct a Special CFC account;
- (iv) only the aforementioned transactions may be settled over such Special CFC accounts; and
- (v) only the party that will have to convert Namibia Dollar to foreign exchange in order to settle such transactions may be permitted to hedge its exposure in respect of the particular transactions. It follows that the party that will export or import the commodities may not be permitted to enter into hedging transactions in respect of their accruals or commitments resulting from such transactions.

- (cc) Local business entities who are oil and gas rights holders and whose sole trade relates to exploration and production (i.e. extraction only) may open and conduct CFC accounts without any restriction on the nature of transactions passing over the account, provided that all requirements relating to reporting in terms of the Reporting System are adhered to.

The opening of CFC accounts for any other purpose requires prior approval from the Exchange Control and Legal Services Department via an Authorised Dealer.

- (c) Permissible set-offs and/or debits over Customer Foreign Currency accounts



The following payments may be set-off against CFC account balances:

- (aa) imports and software electronically downloaded, including all costs related thereto;
- (bb) the payment of expenses such as commission, freight, insurance and demurrage that are expressed in a foreign currency;
- (cc) advertising, exhibition or trade-fair expenses;
- (dd) charges for repairs and adjustments to goods exported temporarily;
- (ee) charges in connection with legal disputes;
- (ff) examination fees where the account holder is responsible for the payment thereof;
- (gg) fees in respect of services rendered;
- (hh) fees in respect of the registration of drugs;
- (ii) royalties and fees arising from the use of patents, designs and trademarks;
- (jj) subscriptions; and
- (kk) technical service payments.

## 19.2 Foreign bank accounts

Business entities may, via an Authorised Dealer, open and operate foreign bank accounts, subject to the following conditions:

- (a) only Namibian companies that have legal or bona fide sources of income abroad are permitted to open foreign bank accounts;
- (b) all foreign credits to such bank accounts are subject to repatriation within 30 days of accrual except in respect of foreign-earned dividends that are exempted;
- (c) funds that accrue in foreign bank accounts must be in respect of transactions permissible in terms of the Authorised Dealer Manual or a specific authority granted by the Exchange Control and Legal Services Department;
- (d) applicants must give a written undertaking to Authorised Dealers that no debits other than transfers to Namibia, debits permissible in terms of a



- (e) specific authority from the Exchange Control and Legal Services Department or bank charges will be passed over the foreign bank accounts; and
- (f) business entities must ensure that the foreign bank accounts have been conducted within the ambit of the aforementioned conditions.

The Exchange Control and Legal Services Department reserves the right to instruct the business entity concerned to close any foreign bank account and for any funds accumulated therein to be repatriated to Namibia in the event of the above-mentioned conditions not being complied with.

## **20. Securities control**

### **20.0 General**

The principal objective in controlling non-resident owned securities is to ensure that residents requiring funds outside the CMA do not obtain such funds by purchasing securities in the CMA and selling them abroad without accounting for the proceeds in foreign currency or Namibia Dollar from a Non-resident

Namibia Dollar account. In addition, since all income due to non-residents on their securities is freely transferable, the aim is to ensure that non-residents do not purchase securities from residents other than through approved channels at a fair market price. Since exchange controls on non-residents have been abolished, the onus rests on the Namibia Dollar buyer or seller of securities to prove that the transaction was concluded on an arm's length basis at a fair and market related price.

In this regard, it is necessary to segregate securities owned by non-residents from securities owned by residents in both certificated and uncertificated environments.

The control over the acquisition or disposal of non-resident securities is exercised by an Authorised Dealer placing the endorsement 'non-resident' on securities owned by non-residents or in which non-residents have an interest. The effect of this endorsement is to ensure that in the event of a disposal by the non-resident of its interest, the payment may be transferred abroad or credited to a Non-resident Namibia Dollar account.

Business entities (including stockbrokers and trust companies) may not act as a nominee for a non-resident purchasing shares or securities in Namibia unless permission has been obtained via an Authorised Dealer from the Exchange Control and Legal Services Department to act in this capacity.



Business entities of the CMA who deal in securities may not register an address outside the CMA without the specific prior written approval of the Exchange Control and Legal Services Department via an Authorised Dealer.

Residents may under no circumstances have local dividends on Namibian registered shares paid outside the CMA without specific prior written approval from the Exchange Control and Legal Services Department.

## **20.1 Listings on the NSE Limited**

- (a) Namibia registered companies, excluding banks and/or bank holding companies, may apply to an Authorised Dealer to primary list on the NSE Limited. Business entities should approach an Authorised Dealer for further details in this regard.
- (b) Listed Namibian companies may, on application to an Authorised Dealer, be permitted to undertake capitalisation issues, reverse listings, issue shares for cash, undertake rights issues or claw-back offers and acquire assets from or dispose assets to a non-resident. In this regard, business entities should approach their Authorised Dealers for guidance regarding the applicable conditions.
- (c) Business entities should note that the following transactions require the prior approval of the Exchange Control and Legal Services Department
- (d) via an Authorised Dealer before the NSE Limited considers such requests:
  - (aa) the listing of a bank and/or bank holding company;
  - (bb) the issue of bearer securities;
  - (cc) restructures, mergers and changes in control where non-residents are involved;
  - (dd) the listing of a quoted Namibian company on a foreign stock exchange;
  - (ee) the listing of an external company on the NSE Limited;
    - the listing of warrants;
  - (ff) the issue of hedge securities;
  - (gg) the delisting of a company listed on the NSE Limited;
  - (hh) the declaration of a dividend in specie or special dividend for any purpose; and



- (ii) the elimination of 'odd lot' minority shareholders through the mechanism of consolidations and/or subdivisions of share capital.
- (e) Foreign companies with offices in Namibia may under no circumstances record and/or change either the ownership or the address of securities from an office of an issuer outside Namibia to an office of an issuer within Namibia without the specific approval of the Exchange Control and Legal Services Department.
- (f) Business entities who own shares listed on the NSE Limited may under no circumstances have dividends paid outside the CMA without specific approval from the Exchange Control and Legal Services Department.

## **20.2 Dealings by business entities on foreign stock exchanges**

- (a) Namibian securities may be exported by resident entities for sale abroad only through the medium of an Authorised Dealer, whose duty it will be to ensure that the sale proceeds are repatriated to Namibia.
- (b) Business entities are not permitted to purchase securities abroad, except as permitted in section 4. Certain arrangements are, however, in force providing for controlled dealings by stockbrokers.
- (c) Major corporates may apply via an Authorised Dealer to the Exchange Control and Legal Services Department to establish primary listings offshore. Guidelines in this regard can be obtained from an Authorised Dealer.
- (d) Namibian listed companies may apply to an Authorised Dealer to secondary list on foreign exchanges and/or list depository receipt programmes in the offshore market. Business entities should approach an Authorised Dealer for further details in this regard.
- (e) The issuance of, or dealing in, bearer securities or bearer options without the specific approval of the Exchange Control and Legal Services Department is prohibited.

## **21. Inward listing on the NSE Limited**

All applications for inward listing on the NSE must be referred to the Exchange Control and Legal Services Department for approval.

## **22.0 Local financial assistance to affected persons**



## 22.1 Introduction

Regulation 3(1)(e) and (f) prohibits the granting of local financial assistance to, and the acceptance of collateral from, affected persons. The party granting local financial assistance to non-residents or affected persons must obtain exemption from the provisions of the Regulations. It is, therefore, the lender's responsibility to establish whether or not a prospective borrower is an affected person or a non-resident.

## 22.2 Availing of local financial assistance

Business entities who are affected persons as defined below may apply to an Authorised Dealer for local financial assistance.

An affected person means a body corporate, foundation, trust or partnership operating in Namibia, or an estate, in respect of which:

- (a) 75 per cent or more of the capital, assets or earnings thereof may be utilised for payment to, or to the benefit in any manner of, any person who is not resident in Namibia; or
- (b) 75 per cent or more of the voting securities, voting power, power of control, capital, assets or earnings thereof, are directly or indirectly vested in, or controlled by or on behalf of, any person who is not resident in Namibia.

There is no restriction on the amount that may be borrowed locally in instances where an affected person wishes to borrow locally from an Authorised Dealer to finance a foreign direct investment into Namibia or for domestic working capital requirements.

Where the funds to be borrowed are required for financial transactions and/or the acquisition of residential property in Namibia, a 1:1 ratio will apply, i.e. for every N\$1 in cash or assets that a non-resident introduces or owns, such non-resident may borrow an equivalent amount in the local market. An Authorised Dealer must be approached for further details in this regard.

Financial transactions, inter alia, include the purchase and sale of any securities (listed or unlisted), repurchase agreements and any derivative transactions on securities. If facilities are granted for the acquisition of fixed property, such facilities may not be increased at any stage based on a revaluation of the property in question.

When an affected person avails of local financial assistance from various lenders, a designated (lead) bank (i.e. an Authorised Dealer of the



affected person's choice), must be appointed by the borrower to coordinate the overall borrowing facilities.

### **22.3 Short-term trade finance extended by a local authorised dealer to a non-resident directly related to the export of goods or services from Namibia**

To encourage exports from Namibia, Authorised Dealers may apply to the Exchange Control and Legal Services Department to extend short-term finance facilities, denominated in Namibia Dollar or a foreign currency, to a non-resident importer or their banker abroad.

### **22.4 Finance facilities extended by a local authorised dealer not related to the export of goods and services from Namibia**

- (a) Foreign currency denominated finance facilities extended to non-residents for utilisation outside Namibia are not subject to the requirements of Regulation 3(1)(e) and (f).
- (b) Namibia Dollar denominated finance facilities extended to non-residents for utilisation within Namibia are subject to the conditions as outlined in section 22.2 above.

## **18. Borrowing abroad by residents**

### **23.1 Approval process**

Requests for borrowing abroad must be referred to the Exchange Control and Legal Services Department via an Authorised Dealer.

When submitting an application for approval the following specific criteria applicable to inward foreign loans being adhered to..

#### **(a) Application requirements**

All applications for inward foreign loans and foreign trade finance facilities must, inter alia, contain the following information:

- (aa) full names of the local borrower;
- (bb) identity number or temporary resident permit number or registration number of the borrower;
- (cc) full names of the foreign lender;
- (dd) domicile of the foreign lender;
- (ee) relationship between the foreign lender and the borrower;



- (ff) denomination of the loan;
- (gg) currency and amount of principal sum;
- (hh) interest rate and margin;
- (ii) purpose of the loan;
- (jj) details of the type of security required, if any;
- (kk) tenor. In instances where a loan will be repaid at a fixed future date, the date on which the loan will be repaid must be provided. Where a loan will be repaid in instalments, the date of the first instalment should be provided as well as the interval of the instalments (e.g. monthly/quarterly);
- (ll) copy of the loan agreement, if available and/or applicable;
- (mm) confirmation that there is no direct or indirect Namibian interest in the foreign lender;
- (nn) full details of early repayment options, as well as currency switch options, if any;
- (oo) in the case of foreign trade finance facilities, written confirmation from the borrower to the effect that the relative import or export transaction is not being financed elsewhere; and
- (pp) details of any commitment fees, raising fees and/or any other administration fees payable by the borrower.

(b) Criteria applicable to inward foreign loans

The following criteria must be strictly complied with:

- (aa) The tenor of each loan must be at least one month;
- (bb) the interest rate in respect of third party foreign denominated loans may not exceed the base lending rate plus 3 per cent or, in the case of shareholders' loans, the base lending rate as determined by commercial banks in the country of denomination;
- (cc) the interest rate in respect of Namibia Dollar denominated loans may not exceed the base rate, i.e. prime rate, plus 5 per cent on third party loans or the base rate, in the case of shareholders' loans;



- (dd) the fixed interest rate linked to the base rate, if applicable, may not exceed the interest rate mentioned in (bb) or (cc) above. In this regard, approved inward foreign loans should always be adjusted accordingly in line with the set criteria;
  - (ee) the loan funds to be introduced may not represent or be sourced from a Namibia Dollar resident's foreign capital allowance, legitimate foreign assets, legitimate foreign earnings retained abroad, and/or foreign inheritances;
  - (ff) there may not be any direct/indirect Namibian interest whatsoever in the foreign lender;
  - (gg) the loan funds may not be invested into foreign sinking funds;
  - (hh) no upfront payment of commitment fees, raising fees and/or any other administration fees are payable by the borrower; and
  - (ii) the abovementioned fees may be paid from Namibia once the loan funds have been received and converted into Namibia Dollar locally
  - (jj) provided that such fees do not exceed 5 per cent of the principal sum.
- (c) Furthermore, applications in respect of the following instances must be submitted to the Exchange Control and Legal Services Department for consideration:
- (aa) loan drawdowns, and capital and interest payments where the funds originate from or are deposited to non-resident accounts. These transactions are not reportable on the Reporting System;
  - (bb) loan drawdowns, capital and interest payments in respect of foreign trade finance facilities for imports or exports where the transactions will not be reported;
  - (cc) any other instances where the Reporting System will not reflect changes to the original loan;
  - (dd) any other instances subsequent to the original loan approval to reflect changes to the original loan, interest rate, capital repayments to non-resident third parties other than the original lender on record with Exchange Control and Legal Services Department and instances where funds are draw-down or are to be received from parties other than the original lender;



- (ee) any unauthorised increase or decrease of the principal amount of the foreign loan;
- (ff) capitalisation of interest;
- (gg) compounding of interest;
- (hh) conversion of the loan to share capital;
- (ii) consolidation of loans;
- (jj) all loans where commitment fees, raising fees and/or any other administrative fees exceed 5 per cent;
- (kk) early capital redemptions;
- (ll) issuance of redeemable preference shares to non-residents;
- (mm) bond issues;
- (nn) interest and/or capital repayments to non-resident third parties other than the original lender on record with Exchange Control and Legal Services Department; and
- (oo) all cases where the criteria outlined in (b) above cannot be met.

(d) Capital repayments

Business entities may approach an Authorised Dealer to repay inward foreign loans and foreign trade finance facilities, inclusive of those approved by the Exchange Control and Legal Services Department.

Capital repayments must be made strictly in accordance with the terms of the loan.

**23.2 Trade finance, long-term loans and working capital loans extended by Authorised Dealers**

Business entities wishing to avail of trade finance, long-term loans and working capital loans in foreign currency must approach an Authorised Dealer in this regard.

**23.3 Fraudulent practices (e.g. advance-fee fraud)**

Any applications for foreign currency to meet the purported cost of raising fees or administrative charges payable in advance and which relate to proposed



borrowing abroad by residents must be referred to the Exchange Control and Legal Services Department via an Authorised Dealer. Such applications must contain full details of the terms of the proposed loan together with the original documentary evidence submitted in support of the request.

## **19. Miscellaneous payments**

Business entities may apply to an Authorised Dealer to remit abroad payments as mentioned below against the production of documentary evidence confirming the amounts involved.

### **24.1 Advertising, exhibition, sponsorship and trade fair expenses**

Advertising and exhibition fees, inclusive of sponsorship fees, in respect of participation in trade fairs outside the CMA.

### **24.2 Charges for repairs and adjustments to goods temporarily exported**

Manufactured goods registered with Customs for re-exporting to their country of origin for repairs or adjustments.

### **24.3 Charges in connection with legal disputes**

Legal fees, court costs and upfront deposits for legal work incurred outside the CMA.

### **24.4 Insurance and road accident fund claims due to non-residents**

Claims payable to non-residents as a result of injury, loss or damages suffered while visiting Namibia. In the event of the recipient being an emigrant, the funds must be credited to an emigrant's capital account.

### **24.5 Court judgment payments**

Payments due to non-residents in terms of or as a result of any judgment granted by a court in Namibia.

### **24.6 Examination fee payments**

Examination fees payable to schools, universities or similar educational institutions or examining bodies abroad whose exams are being held in Namibia.

### **24.7 Medical expenses**



Medical examination expenses in respect of prospective contract workers and immigrants, provided that the account from the non-resident medical practitioner, addressed to the resident corporate entity, is submitted in support of the request.

#### **24.8 Refunds**

- (a) Refunds paid by the Directorate of Inland Revenue due to non-resident entities.
- (b) Pension payments that have been received from outside the CMA after the demise of a resident beneficiary.
- (c) Refunds in respect of orders, tour reservations, registration fees, erroneous payments and overpayments by non-residents.

#### **24.9 Registration of drugs**

Fees due by pharmaceutical companies registered in Namibia in respect of the registration of drugs outside the CMA.

#### **24.10 Rental and lease payments**

Rental and lease payments in respect of capital goods utilised inside or outside Namibia to fulfil any contractual obligations.

#### **24.11 Sport events**

Entrance fees for participation in international sporting events.

#### **24.12 Subscriptions**

- (a) Current membership and affiliation fees to recognised medical, engineering and other technical, learned or international societies.
- (b) Club subscriptions.
- (c) Current subscriptions for international business or technical information services, supplied via data or telephone lines to visual display units and printers.

#### **24.13 Technical service payments**



Fees, including reimbursements of air fares to CMA countries, due in respect of non-residents brought to Namibia for the specific purpose of installing or repairing specialized machinery and equipment, or for commissioning and supervising the installation thereof, as well as training local personnel in this regard.

#### **24.14 Tender documentation**

Fees payable to acquire tender documentation in order to tender for contracts outside the CMA.

#### **24.15 Transportation costs and cash floats**

Ship disbursements, landing fees, fuel costs, emergency repair costs, toll fees and other fees related to the transport of goods.

In cases where a business entity must effect these payments on a regular basis in cash to non-residents or on behalf of non-residents, a cash float in foreign currency not exceeding the equivalent of N\$100 000 may be accorded by an Authorised Dealer. The cash float may be replenished against the presentation of documentary evidence confirming the utilisation of foreign currency from the cash float for these purposes.

Business entities may make advance payments via an Authorised Dealers in foreign currency not exceeding the limit mentioned above to non-resident petroleum and concession companies where cards will be issued to allow for payment of petrol and toll fees respectively. The accounts may be replenished against the representation of documentary evidence confirming the purposes for which the funds were utilised.

#### **24.16 Registration of agrochemical products**

Registration fees in respect of agrochemical products registered outside the CMA.

#### **24.17 Visiting artistes, entertainers, sportsmen and other similar professionals**

The net earnings of foreign artistes, entertainers, sportsmen and other similar professionals engaged by residents may on departure be transferred abroad by Authorised Dealers, provided that they view documentary evidence from IRD confirming that all tax commitments have been met.

Where a contract requires that an upfront or advance payment be transferred prior to completion of the non-resident's contractual obligations, such payment



may only be credited to an Escrow account and may only be released proportionately after the completion of each performance.

#### **24.18 Foreign contract payments**

Business entities are permitted to pay expenses such as salaries, accommodation costs incurred abroad by residents as a result of their foreign contractual obligations. A copy of the relevant foreign contract must be presented to an Authorised Dealer.

#### **24.19 Conference, congress and seminar fees**

Business entities are permitted to pay conference, congress and seminar fees (including ad hoc short-term courses presented at foreign entities) to non-residents in respect of local or international events, provided that documentary evidence from the foreign beneficiary is submitted to an Authorised Dealer.

#### **24.20 Employment contracts involving non-residents**

Business entities that are required to transfer funds abroad in respect of employment contracts involving non-residents employed in and outside of Namibia may approach an Authorised Dealer to allow such payments.

#### **24.21 Commission and/or brokerage on investments introduced into South Africa from abroad**

Fees in respect of investments introduced into Namibia from abroad are permissible, provided that the business entity confirms in writing that the rate at which such payments are calculated is market related.

#### **24.22 Miscellaneous payments**

Miscellaneous payments within a limit of N\$100 000 per transaction via an Authorised Dealer to non-residents, not specifically dealt with elsewhere in this document, may be effected. Suitable documentary evidence must be presented to an Authorised Dealer substantiating the amount and nature of the liability.

#### **20. Company recharge arrangements in connection with share option schemes**

Any recharge arrangements in connection with a foreign parent company share incentive or share option schemes must be referred to the Exchange Control and Legal Services Department via an Authorised Dealer.



## **21. Cross-border foreign exchange transaction reporting requirements**

Business entities must note that the reporting of all cross-border foreign exchange transactions by an Authorised Dealer and/or ADLA to the Exchange Control and Legal Services Department is compulsory. Accordingly, business entities must provide full details pertaining to the relevant cross-border transaction as requested by the Authorised Dealer and/or ADLA concerned.

The objective of the Exchange Control and Legal Services Department Reporting System is to ensure accurate and comprehensive reporting of all data by Authorised Dealers and ADLAs on transactions, irrespective of the amount, for compilation of:

- (a) balance-of-payments statistics by the Economic Research and Statistics Department of the Bank of Namibia;
- (b) foreign debt statistics and repayment profiles to support monetary policy decisions; and
- (c) statistical information relating to the nature, volume and values of the various cross-border flows and to provide the appropriate information for economic and financial management decisions, as well as planning and policy formulation.

### **26.1 Integrated form**

Business entities must complete an integrated form in respect of all cross-border transactions at an Authorised Dealer or ADLA.

When the authorised representative of the business entity is physically present at the Authorised Dealer or ADLA, the integrated form must be completed and signed by the authorised representative in respect of all inward and outward payments.

When the authorised representative is not physically present to complete and sign the integrated form, the Authorised Dealer or ADLA may complete and sign the integrated form either physically or electronically, provided that the Authorised Dealer or ADLA has been authorised or mandated to do so by means of a letter, a facsimile message, an e-mail message or by a recorded telephonic message to act on the business entity's behalf.

**26.2 Declaration**



The following declaration is included in the integrated form to be signed by the authorised representative of the business entity:

“I, the undersigned....., hereby declare that:

- 1. I have read this document and know and understand the contents thereof;
- 2. the information furnished above is in all respects both true and correct;
- 3. the currency applied for will only be used for the specific purpose stated herein;
- 4. the documentation presented in support of this application is in all respects authentic;
- 5. I have been informed of the limit applicable to the above transaction and confirm that this limit will not be exceeded as a result of the conclusion of this transaction; and
- 6. I consent to this information being provided to the Directorate of Inland Revenue and/or the Financial Intelligence Centre.”

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