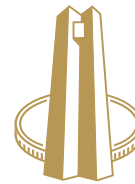


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**SOUTH AFRICAN RESERVE BANK**  
Financial Surveillance Department

14/6/2\_2024

2024-11-26

## **Exchange Control Circular No. 13/2024**

### **Royalties and fees payable by South African resident entities to non-residents**

We refer to Exchange Control Circular No. 2/2024 wherein interested parties were invited to submit comments on the draft circulars following the announcement made by the Minister of Finance in Annexure E of the 2024 Budget Review. Following the inputs received from interested parties, the final circular is hereby issued.

In a continuous effort to reduce red tape and since the Transfer Pricing rules are included in South African tax legislation, South African residents would no longer be required to obtain prior approval from the Financial Surveillance Department (FinSurv) of the South African Reserve Bank to remit royalties and fees payable to related non-resident parties.

It should be noted that transactions involving related parties must be concluded at arm's length and at fair and market related prices.

The following amendments to the Currency and Exchanges Manual for Authorised Dealers (Authorised Dealer Manual) are outlined:

#### **Section B.3(C)**

The subsection has been amended to read as follows:

- (i) The following agreements and payments in respect of royalties and fees payable to non-resident parties (e.g. the use of foreign owned technology, intellectual property and for services rendered by non-residents) are transferable abroad as outlined below:
  - (a) payment for services rendered by non-residents, including the reimbursement of air fares, accommodation and other costs directly associated with the rendering of the services in question, not specifically dealt with elsewhere in the Authorised Dealer Manual;
  - (b) 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; and
  - (c) payment of percentage-based fees, provided it is normal in the trade concerned.
- (ii) Prior to effecting any payments, Authorised Dealers should view a copy of the agreement entered into. In all instances an invoice, verifying the purpose and the amount involved, from the relevant non-resident party should be presented.
- (iii) With regard to transactions involving related parties, Authorised Dealers must receive confirmation from senior management of the applicant company that transfer pricing documentation is maintained as prescribed by the South African Revenue Service by following the links: <https://www.sars.gov.za/lapd-lsec-tadm-pn-2016-05-notice-1334-gg-40375-28-october-2016/> and <https://www.sars.gov.za/lapd-lsec-tadm-pn-2016-05a-briefing-note-28-october-2016/> and expanded on in the most recent edition of the Organisation for Economic Cooperation and Development Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations.
- (iv) With regard to ad-hoc services rendered between related parties, Authorised Dealers must receive written confirmation from senior management of the

applicant company that the transaction was concluded at fair and market related prices. Attention is also drawn to paragraph 5 of the public notice published under <https://www.sars.gov.za/lapd-lsec-tadm-pn-2016-05-notice-1334-gg-40375-28-october-2016/>

- (v) Authorised Dealers must ensure that the royalties and/or fees payable are appropriately reported on the FinSurv Reporting System.
- (vi) In addition to the above, all transactions executed under this dispensation where payments are made to related non-resident parties must be indicated in the subject field as 'Related party payment' with Circular 13/2024 in the SARBAuthReferenceNumber field when reporting the transactions on the FinSurv Reporting System.
- (vii) A return must be submitted to the Financial Surveillance Department on a quarterly basis, providing the name and registration number of the applicant entity and the name of the related party in respect of all related party agreements considered by the Authorised Dealer during the period stated.
- (viii) The applicant entity must present a letter in respect of royalty payments, on an annual basis, from their 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.
- (ix) Payments in respect of royalties and fees where the required invoices are older than 12 months may be effected, provided that no interest has been charged by the foreign beneficiary.
- (x) Authorised Dealers may approve the extension of agreements authorised in (i) above as well as agreements previously approved by the Financial Surveillance Department, provided that the agreement originally entered into makes provision for an extension or an addendum to the agreement is viewed confirming the extension thereof.

### **Section B.3(C)(ii)**

The subsection has been deleted and the remainder of the subsection has been renumbered accordingly.

### **Section B.3(D)(i)(c)**

This subsection has been amended to read as follows:

- (c) where applicable, minimum payments, advance payments and down payments are permissible provided that such payments are normal in the trade concerned.

### **Section K.(K)**

A new subsection has been added as follows:

- (K) Return of related party agreement(s). See subsection B.3(C)(vii) of the Authorised Dealer Manual.

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

**Acting Head of Department: Financial Surveillance**