EXCHANGE CONTROL AND AMNESTY OVERVIEW

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HISTORICAL BACKGROUND

- 1939: Exchange Control first introduced in South Africa in the form of the Emergency Finance Regulations adopted in the Sterling Area, to

  - prevent large capital outflows

  - protect foreign reserves of member countries

HISTORICAL BACKGROUND

- 1961: Current set of exchange controls introduced by way of the Exchange Control Regulations issued in terms of the Currency and Exchanges Act (No. 9 of 1933)
- 1961: Sharpeville tragedy resulted in the deterioration of the capital account of the Balance of Payments
- South African Authorities consequently induced to restrict sale proceeds of non-resident owned assets

HISTORICAL BACKGROUND

- 1983: Following the De Kock Commission Report on Exchange Rate policies, the dual exchange rate system (financial rand) was abolished

- 1983: Non-Residents could freely invest in or disinvest from South Africa

HISTORICAL BACKGROUND

- 1985: Exchange Controls once again applied restrictively,as a result of international sanctions, trade boycotts, disinvestment campaigns and the withdrawal of loan funding to South Africa
- 1985: Introduction of Debt Standstill Arrangements (i.e the restructure of SA’s foreign debt and culminating in a sixteen-year repayment period which ended 15 August 2001)
- Exchange Controls were at times tightened or relaxed depending on circumstances (e.g. 1976 riots)

PURPOSE OF CONTROLS

The purpose of Exchange Control is inter alia, to:

PURPOSE OF CONTROLS

- prevent the loss of foreign currency resources through the transfer abroad of real or financial capital assets held in South Africa

and

- constitute an effective system of control over the movement into and out of South Africa of financial and real assets, whilst simultaneously avoiding interference with the efficient operation of the commercial, industrial and financial system of the country

Description of exchange controls in South Africa in 1994

The exchange control system in South Africa in 1994 was principally applicable to outward capital movements, with the objective to:

- ensure repatriation into the South African banking system of all foreign currency acquired by residents;

Description of exchange controls in South Africa in 1994

- prevent the loss of such foreign currency resources through the transfer abroad of real or financial capital assets held in South Africa;
- control the movement into and out of South Africa of financial and real assets;
- create a healthy stock of foreign exchange reserves.Therefore,

Description of exchange controls in South Africa in 1994

- Prevailing foreign exchange reserves were applied prudently
- Foreign investments by South African corporates were only allowed if the finance for such investment were procured by offshore borrowing without recourse to South Africa
- Institutional investors were not allowed to diversify their asset portfolios internationally

Description of exchange controls in South Africa in 1994

- Individuals could not acquire any foreign assets
- All residents had to obtain permission to borrow funds abroad
- Non-resident transactions were subject to the financial rand mechanism
- Emigrants could only transfer a portion of their capital abroad on their permanent departure from South Africa, as a settling-in allowance.

The removal of exchange controls in South Africa

- After the election in April 1994, the South African Government had to decide whether to implement:
  - “Big Bang” approach, or
  - “Gradual” approach

Opted for gradual approach to elimination of Exchange Controls in South Africa

Abolition is part of a major economic restructuring programme.

Logical sequencing of removal of exchange controls

The Government decided that the logical sequencing for the removal of exchange controls would be:

1. Abolition of exchange controls over non-residents
2. Abolition of controls on current account transactions
3. Gradual leniency in approval of direct foreign investments by corporates

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Logical sequencing of removal of exchange controls

4. Allowing institutional investors to acquire foreign portfolio investments to diversify internationally
5. A progressive relaxation of controls over transfers by residents
6. Release of emigrants’ remaining blocked funds.

Removals implemented to date

- The financial rand system and control over non-residents were removed in March 1995
- The current account of BoP liberalised
- SA corporates may invest abroad in cases where the BoP stands to benefit directly from such investment, i.e enhanced foreign exchange earnings by way of export of goods and services

Removals implemented to date

- Institutional Investors allowed to acquire foreign portfolio assets by way of asset swaps since July 1995 and cash transfers since 1997 up to December 2001
- SA natural persons allowed to invest abroad since July 1997

Current Exchange Controls

- Non-residents: no controls, except for entities with a non-resident interest of 75% or more wishing to avail of local financial assistance – restricted borrowing base
- Current account of BoP: liberalised, subject to generous limits imposed on certain transactions e.g. travel, study, maintenance & gifts

Current Exchange Controls

- SA corporates:
- - R2billion limit for approved investments into Africa, including SADC
- - R1billion for rest of the world
- - dividend credits for dividends repatriated w.e.f 2003-02-27
- - allowed to retain foreign currency earnings in C.F.C account for up to 180days

Current Exchange Controls

- Institutional investors
- - asset swaps were terminated in 1998
- - new dispensation as a transition to new prudential regime introduced end July 2003
- - Institutional Investors now allowed to transfer funds from SA for portfolio investments abroad

Current Exchange Controls

- <u>SA individuals:</u> may invest R750 000 abroad
- <u>Emigrants:</u> can apply for the release of their remaining blocked assets (under the control of an Authorised Dealer), subject to an exit charge of 10% of the excess amount

Future legislation

- Life without Exchange Control will not necessarily mean no requirement to control or report information
- Requirement to report all cross border flows will remain in force.